United States Department of Labor
Employees' Compensation Appeals Board

M.L., Appellant	)	
and	)	**Docket No. 17-0487**
	)	**Issued: December 8, 2017**
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Atlanta, GA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On December 28, 2016 appellant filed a timely appeal from a November 4, 2016 decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act (FECA)[1] and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish an occupational disease causally related to factors of his federal employment.

FACTUAL HISTORY

On August 12, 2016 appellant, then a 55-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that he sustained injuries to his cervical spine and lower

[1] 5 U.S.C. § 8101 *et seq.*

back while performing his federal employment duties. He noted that he experienced migraine headaches as well as pain in the leg, body, and upper back. Appellant explained that he had been assigned to pull a heavy box weighing 1,300 to 1,400 pounds from a machine and that, in doing so, his body overheated and he felt pain in his back and neck. He recalled that he first became aware of his conditions and of their relationship to his federal employment on March 8, 2013. A supervisor noted that his condition was first reported on August 12, 2016. Appellant was last exposed to his employment duties on June 19, 2016.

By letter dated August 16, 2016, the employing establishment requested that OWCP question appellant regarding any injuries between the date of injury and the date they were first reported to a supervisor or a physician, whether he had any similar preexisting injuries or disabilities, and for appellant to describe, in detail, the development of his conditions. The employing establishment maintained that appellant had not provided any rationalized medical evidence to support that his claimed conditions were related to factors of his federal employment.

By undated letter received on August 17, 2016, a supervisor noted that at approximately 2:45 p.m. on July 28, 2016, appellant brought medical documentation to work and requested a Form CA-2 for injuries to his back and neck. He observed that, in order to retrieve the papers from his backpack, appellant squatted "in a baseball catchers' stance" for about a minute, and stood back up without any noticeable difficulty. The supervisor further disputed the allegation that appellant pulled a 1,500 to 1,700-pound container by hand, as employees transported mail using hand pallet or power pallet jacks.

In a report dated March 18, 2013, Dr. Ray Bennett, a family medicine specialist, diagnosed a lumbar strain. He noted that appellant related that an injury occurred while pulling boxes at the employing establishment on March 6, 2013.

On March 29, 2013 a physician assistant, Maya P. Acharya, reported that appellant had a musculoskeletal injury for which a structured physical therapy program was necessary.

By letter dated August 30, 2016, OWCP informed appellant that further factual and medical information was needed to support his claim. Appellant was afforded 30 days to submit the requested information. OWCP subsequently received additional medical evidence.

In a handwritten medical report dated August 24, 2001, Dr. Varma Meka, a Board-certified internist, diagnosed migraines and lower back pain. Appellant submitted additional reports from Dr. Meka with consistent diagnoses of migraine and lower back pain. In a report dated August 28, 2008, Dr. Meka diagnosed migraines, lower back pain, and hyperlipidemia. In a report dated June 4, 2009, she noted that appellant complained of migraine headaches. Dr. Meka diagnosed migraine headache and lower back pain. In a report dated October 21, 2014, she examined appellant on a follow-up visit and diagnosed migraines and low back strain. By letter dated September 16, 2016, she noted that appellant had been under her care from April 4, 2013 through October 21, 2014 for a lower back injury that occurred on March 20, 2015. Dr. Meka noted that appellant had severe lumbar strain and was asked to obey work restrictions of lifting no more than 20 pounds.

In diagnostic reports dated August 22, 2007, Dr. John B. Black, a Board-certified radiologist, examined the results of x-rays of appellant's thoracic and lumbar spine. He noted mild degenerative joint disease of the thoracic spine and a normal lumbar spine.

In reports dated between March 8 and May 2, 2011, Dr. Stephen Dawkins, Board-certified in occupational medicine, diagnosed sprain/strain of the lumbar spine. He followed appellant's recovery process, noting that appellant had attended physical therapy and that, by May 2, 2011, appellant reported about 80 percent recovery.

In a report dated September 29, 2013, Dr. Lawrence Powell, Board-certified in sports medicine, diagnosed a lumbar strain. He noted that appellant recalled that he injured his back on September 28, 2013, due to working as a mail carrier.

In a diagnostic report dated January 8, 2016, Dr. Raul Paraliticci, a Board-certified radiologist, examined the results of x-rays of appellant's cervical spine. He noted no acute process.

In a diagnostic report dated August 15, 2016, Dr. Almass Welji, a Board-certified diagnostic radiologist, examined the results of a computerized tomography (CT) scan of appellant's head. He noted no intracranial abnormality with trace mucosal thickening in the maxillary sinuses. On the same date Dr. Welji examined the results of a magnetic resonance imaging (MRI) scan of appellant's lumbar spine. He noted a mild disc bulge at L4-5 and L5-S1, a central protrusion at L5-S1, and encroachment of nerve root foramina at L4-5 and L5-S1, greater at L5-S1.

In an undated narrative statement received on October 18, 2016, appellant further described the claimed injuries. He recalled a toe injury from when an "APC" (all-purpose container) ran over his feet, a wrist injury from moving mail containers and equipment, a knee injury from when someone driving equipment fell asleep, running into a wine container, which ran into him and pinned him to a wall, lower and upper back injuries from driving a pallet jack, using it to lift over 1,300 pounds of containers and packages of mail, when he slipped and fell off the equipment because the equipment was defective, a neck injury from falling while working mail, and anthrax exposure from when another employee blew anthrax powder in his face, resulting in severe migraines. Appellant further noted that there had been bombs at two facilities of the employing establishment, leaving him paranoid and uneasy. He further asserted that the employing establishment made him work full duty while he was injured. Appellant stated that the duties he claimed had caused his condition began in 2006, and that he had no prior severe conditions similar to his injuries prior to working for the employing establishment.

In a narrative statement dated July 27, 2016, appellant described the circumstances of several claimed injuries. He noted that on December 13, 2013 his body shut down from overheating when he arrived home from work, leaving him paralyzed on the floor for over six hours. On December 14, 2015 appellant visited a physician and was examined, noting damaged discs in his neck and migraines. He noted that on July 17, 2016 he overheated again, while his wife took care of him the whole day. Appellant stated that he could not lift anything.

By decision dated November 4, 2016, OWCP denied appellant's claim. It found that he failed to submit sufficient medical evidence to establish a causal relationship between his claimed injuries and factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] has the burden of proof to establish 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 or specific condition for which compensation is claimed is causally related to the employment injury.[3] These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[4]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.

The claimant has the burden of proof to establish 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.[5] 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.[6]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[7] Rationalized medical opinion evidence is medical evidence which includes a physician's reasoned opinion on whether there is causal relationship between the claimant's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be

[2] *Id*.

[3] *Gary J. Watling*, 52 ECAB 278, 279 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[4] *Michael E. Smith*, 50 ECAB 313, 315 (1999).

[5] *Roma A. Mortenson-Kindschi*, 57 ECAB 418, 428 n.37 (2006); *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

[6] *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

[7] *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117, 123 (2005).

supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[8] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.[9]

ANALYSIS

OWCP accepted that appellant was a federal civilian employee who filed a timely claim, that the employment factors occurred as alleged, and that a medical condition had been diagnosed. It denied his claim because he had not submitted sufficient medical evidence to establish that his diagnosed conditions were caused or aggravated by factors of his federal employment. The Board finds that appellant has not met his burden of proof to establish that his diagnosed conditions are causally related to the accepted factors of his federal employment.

Appellant alleged that he first became aware that his lumbar conditions and migraine headaches were causally related to his federal employment in March 2013. The record reflects that appellant sought medical treatment with Dr. Bennett in March 2013, who diagnosed a lumbar strain. Appellant was also treated by Dr. Meka in April 2013, who diagnosed lumbar strain and migraine headache. In September 2013, he sought treatment with Dr. Powell, and he also diagnosed a lumbar strain. Although appellant submitted medical reports from various physicians diagnosing conditions related to migraines and a lumbar sprain, none of the medical reports contained any opinion on the cause of these conditions. At most, the physicians merely noted appellant's reported history of injury, rather than offering their own opinions on causation.[10] The Board has held that 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]

The Board notes that an opinion explaining how the alleged factors of employment caused the diagnosed conditions is especially important if the record reflects that appellant had preexisting conditions.[12] Dr. Meka reported on August 24, 2001 that appellant was diagnosed with migraine and low back pain. Her records also documented that appellant was treated for these conditions in 2008 and 2009. Appellant was also treated by Dr. Dawkins in 2011 for lumbar sprain/strain. In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates

[8] *Leslie C. Moore*, 52 ECAB 132, 134 (2000).

[9] *Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

[10] *See D.D.*, Docket No. 15-0291 (issued May 22, 2015); *see also S.J.*, Docket No. 15-1728 (issued December 3, 2015).

[11] *See C.B.*, Docket No. 09-2027 (issued May 12, 2010); *see also S.E.*, Docket No. 08-2214 (issued May 6, 2009).

[12] *A.C.*, Docket No. 16-0452 (issued October 27, 2017).

between the effects of the work-related injury or disease and the preexisting condition.[13] As the reports from Drs. Bennett, Mekla, Powell and Dawkins were unrationalized, they were insufficient to establish causal relationship and were of limited probative value.[14]

The record also contains a number of diagnostic reports from Drs. Black, Weiji, and Paraliticci. The Board has held that reports of diagnostic tests are of limited probative value as they fail to provide an opinion on the causal relationship between appellant's employment duties and the diagnosed conditions. For this reason, this evidence is insufficient to meet his burden of proof.[15]

Finally, the Board notes that the record also contains a March 29, 2013 report from Physician Assistant Maya Acharya. Physician assistants[16] are not considered physicians under FECA, and their opinions are therefore of no probative medical value.[17] This report is therefore insufficient to meet appellant's burden of proof to establish causal relationship.

As appellant failed to submit any rationalized medical evidence to support his allegation that his claimed conditions were caused by factors of his federal employment, he has not met his burden of proof.[18]

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 an occupational disease causally related to factors of his federal employment.

[13] *Id*.

[14] *See S.D.*, Docket No. 16-0999 (issued October 16, 1017).

[15] *S.G.*, Docket No. 17-1054 (issued September 14, 2017).

[16] *Allen C. Hundley*, 53 ECAB 551(2002).

[17] *See David P. Sawchuk*, 57 ECAB 316, 320n.11 (2006) (lay individuals such as physician assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law). *See also M.J.*, Docket No. 17-1241 (October 17, 2017).

[18] *Supra* note 4.

ORDER

IT IS HEREBY ORDERED THAT the November 4, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 8, 2017
Washington, DC

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

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board