

FACTUAL HISTORY

On October 8, 2014 appellant, a 51-year-old mail carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained a cervical condition causally related to factors of her federal employment.

In a January 9, 2015 decision, OWCP denied appellant's claim that she sustained a cervical condition in the performance of duty.

In a report dated October 6, 2013, Dr. Bruce Rosenbaum, Board-certified in neurosurgery, advised that he was providing an opinion in support of a traumatic injury claim. He advised that appellant was sorting mail on December 13, 2012 when she began to experience neck pain into the head and pain down the left upper extremity to the second and third digits of the left hand. Dr. Rosenbaum reported that she subsequently went to her supervisor's office, where she had a syncopal episode. Appellant underwent an electroencephalogram which Dr. Rosenbaum advised was consistent with occasional right temporal sharp waves. He noted that a magnetic resonance imaging (MRI) scan of the cervical spine showed predominant C3-4 and C4-5 disc osteophyte complex of the brain. Dr. Rosenbaum diagnosed syncope and cervical radiculopathy caused by the nature of her work. He noted that she performed repetitive movements with the upper extremities. Dr. Rosenbaum advised that the syncopal event was not related to the work injury. He opined that the period of disability pertaining to the work-related cervical radiculopathy was from December 13, 2012 through April 18, 2013.

By decision dated January 9, 2015, OWCP denied the claim, finding that appellant failed to meet her burden of proof to establish that she sustained a cervical condition causally related to the accepted employment factors.

By letter dated January 19, 2015, counsel requested an oral hearing before a representative of the Branch of Hearings and Review, which was held on June 24, 2015.

In a decision dated September 10, 2015, an OWCP hearing representative affirmed the January 9, 2015 decision.

In a report dated September 13, 2015, received by OWCP on December 18, 2015, Dr. Rosenbaum noted appellant's duties of twisting, bending, reaching and lifting up to 70 pounds, as well as pushing with reference to the sorting, carrying, and transporting of mail and parcels. He advised that the definitive diagnosis was cervical radiculopathy causally related to her repetitive work injuries of an occupational nature, caused by the repetitive trauma of her occupational injury. Dr. Rosenbaum opined, based on his experience as a Board-certified neurosurgeon, that the repetitive nature of the work she described including bending, twisting, lifting, and reaching on an ongoing continuous, repetitive basis, was exactly the etiology of such injuries she had with reference to her cervical discogenic disease and associated, occupationally caused cervical radiculopathy.

On November 20, 2015 counsel filed a request for reconsideration of the September 10, 2015 decision.

By decision dated February 17, 2016, OWCP denied modification of the September 10, 2015 decision. It found that appellant failed to present medical evidence sufficient to establish a cervical condition causally related to employment factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 timely filed within the applicable time limitation period of FECA, that an injury was sustained 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.⁴ These are the essential elements of each and every 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 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 medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated 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 supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶

Appellant has the burden of establishing by the weight of the substantial, reliable, and probative evidence, a causal relationship between her claimed lower back and neck conditions and her federal employment. This burden includes providing medical evidence from a physician who concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.⁷

³ *Id.*

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *Id.*

⁷ *See Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

ANALYSIS

Appellant has failed to submit medical opinion containing a rationalized, probative report which relates her claimed cervical condition to factors of her employment.

Dr. Rosenbaum's October 6, 2013 and September 13, 2015 reports noted appellant's complaints of neck pain and presented a diagnosis of cervical radiculopathy, which he generally attributed to employment factors. In his October 6, 2013 report, he advised that she was sorting mail on December 13, 2012 when she began to experience neck pain into the head and pain down the left upper extremity to the second and third digits of the left hand. Dr. Rosenbaum reported that appellant subsequently went to her supervisor's office, where she had a syncopal episode. He noted that a cervical MRI scan showed predominant C3-4 and C4-5 disc osteophyte complex of the brain. Dr. Rosenbaum diagnosed syncope and cervical radiculopathy caused by the nature of appellant's work. He noted that she performed repetitive movements with the upper extremities. Dr. Rosenbaum opined, however, that the syncopal event was not related to the work injury. He noted that appellant was disabled due to work-related cervical radiculopathy from December 13, 2012 through April 18, 2013. In his September 13, 2015 report, Dr. Rosenbaum noted her duties of twisting, bending, reaching and lifting up to 70 pounds, as well as pushing with reference to the sorting, carrying and transporting of mail and parcels. He reiterated his diagnosis of cervical radiculopathy, which, he advised, was causally related to appellant's repetitive work injuries of an occupational nature, caused by the repetitive trauma of her occupational injury. Dr. Rosenbaum noted that her work was of a repetitive nature, including bending, twisting, lifting, and reaching on an ongoing, continuous, and repetitive basis.

Dr. Rosenbaum's reports did not provide a probative, rationalized medical opinion that the claimed conditions or disability were causally related to employment factors.⁸ He did not sufficiently describe appellant's job duties or explain the medical process through which such duties would have been competent to cause the claimed condition. Dr. Rosenbaum's opinion is of limited probative value as it does not contain any medical rationale explaining how appellant's job duties physiologically caused the diagnosed cervical radiculopathy condition. His reports thus did not constitute adequate medical evidence to establish that appellant's claimed cervical condition was causally related to her employment.

An award of compensation may not be based on surmise, conjecture, or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁹ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

OWCP advised appellant of the evidence required to establish her claim; however, appellant failed to submit such evidence. Consequently, appellant has not met her burden of proof in establishing that her claimed cervical condition was causally related to her employment.

⁸ *William C. Thomas*, 45 ECAB 591 (1994).

⁹ *Id.*

On appeal counsel contends that Dr. Rosenbaum's reports are uncontroverted and contain medical evidence sufficient to establish a *prima facie* case that she sustained a cervical condition causally related to employment factors. For the reasons set forth above, appellant failed to meet her burden of proof.

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 failed to meet her burden of proof to establish a claimed cervical condition causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the February 17, 2016 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: February 9, 2017
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