

**United States Department of Labor
Employees' Compensation Appeals Board**

A.C., Appellant

and

U.S. POSTAL SERVICE, RIVERDALE
STATION, Bronx, NY, Employer

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**Docket No. 16-1506
Issued: January 5, 2017**

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 July 14, 2016 appellant filed a timely appeal from a February 12, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant met her burden of proof to expand the accepted conditions in her claim to include lower back sprain, L5-S1 central disc herniation, and disc bulge at L4-5.

On appeal appellant asserts that when she fell on June 15, 2015 she tried to break the fall with her arm but fell straight onto her back. She maintained that the submitted medical evidence established that her back conditions were employment related.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On June 6, 2015 appellant, then a 48-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that she fractured her right wrist that day.

Dr. Richard Oswald Kirkwood, Board-certified in emergency medicine, indicated that on an emergency department report dated June 6, 2015 appellant slipped and fell at work, landing on her right wrist, and that she denied any other injuries. He diagnosed closed fracture of radius and prescribed medication.

Appellant was next seen on June 9, 2015 by Dr. David E. Lent, Board-certified in orthopedic surgery, who reported a history of right wrist fracture and referred appellant to his associate, Dr. Eric M. Spencer, a Board-certified orthopedic surgeon, who first saw appellant on June 11, 2015. Dr. Spencer performed right distal radius open-reduction internal fixation on June 16, 2015 and provided follow-up care on June 23, 30, July 1 and 21, 2015. He advised that appellant was totally disabled.

By letter dated July 1, 2015, appellant noted that a supervisor filled out her Form CA-1 on the day of injury because she was unable to use her right hand. She maintained that, in addition to the fractured wrist, she also injured her shoulder and back and needed medical treatment for these conditions.

In a July 7, 2015 report, Dr. Lent noted that appellant reported back and shoulder pain since the employment injury. He described physical examination findings of paraspinal tenderness in the upper lumbar and lower thoracic region, increased pain with flexion and extension of the spine, and significant tenderness along the spine of the scapula with some resolving ecchymosis in this region. Dr. Lent diagnosed severe contusion of the right scapula and lower back strain and contusion. He recommended physical therapy.

By letter dated August 4, 2015, OWCP notified appellant that the claim had initially been administratively handled for payment of limited medical expenses and had now been opened for formal adjudication. It indicated that closed fracture of the lower end of radius, right, had been accepted. OWCP advised appellant of the type of evidence needed to establish her claim for additional conditions, including a physician's opinion explaining how the accepted work incident caused or aggravated any additional conditions.

On August 7, 2015 appellant began filing claims for compensation (Form CA-7) for benefits commencing July 22, 2015, when her continuation of pay expired. She received wage-loss compensation.

In reports dated August 4 to 25, 2015, Dr. Lent noted that appellant's wrist was progressing well but that she still had significant pain and an impingement sign on right shoulder examination. Appellant also had lower back pain. On an attending physician's report (Form CA-20) dated August 14, 2015, Dr. Lent diagnosed severe contusion in the right scapula and lower back strain. He checked a form box marked "yes," indicating that these conditions were employment related, and changed her shoulder diagnosis to internal derangement. Dr. Lent recommended a shoulder magnetic resonance imaging (MRI) scan and advised that appellant

could not return to work. On August 25, 2015 he noted appellant's report that, when she fell, she put her arm out in order to stop her fall and then fell backwards, landing on her right shoulder, with significant shoulder pain and difficulty with range of motion. Dr. Lent indicated that he thought all conditions stemmed from the initial fall and were all causally related.

On attending physician's reports dated September 15 and November 11, 2015, Dr. Lent noted appellant's complaints of shoulder and lower back pain. He diagnosed wrist fracture, internal derangement of the shoulder and lower back sprain. Dr. Lent checked a form box marked "yes," indicating that the conditions were employment related, noting that "patient was hurt while at work." He advised that appellant continued to be totally disabled.

A November 24, 2015 right shoulder MRI scan demonstrated supraspinatus tendinosis with a high grade articular surface insertional tear without significant retraction, moderate acromioclavicular joint arthrosis, and subscapularis tendinosis. A November 30, 2015 MRI scan of the lumbar spine demonstrated straightening of the lumbar lordosis which could represent muscular spasm, a broad disc bulge at L4-5 with a left annular fissure, and a protruding disc at L5-S1.

By letter dated December 30, 2015, OWCP again informed appellant that additional medical evidence was needed to support her claim for right shoulder and lower back conditions. It asked her to provide a narrative report from her physician who explained with supportive medical rationale how the claimed conditions were medically connected to the June 6, 2015 work injury. Appellant was forwarded a questionnaire to complete and given 30 days to respond.

Appellant completed the development questionnaire on January 5, 2016. She indicated that she had neither back nor shoulder issues before she fell on June 6, 2015. Appellant maintained that she mentioned all of her conditions from the first day but that, due to the severity of her wrist injury, the physician put her wrist first.

In a progress note dated January 11, 2016, Dr. Lent opined that, when appellant fell on June 6, 2015 and fractured her right wrist, she also injured her right shoulder. He discussed the right shoulder MRI scan findings and diagnosed right shoulder partial almost full-thickness rotator cuff tear. Dr. Lent advised that he believed the injury was due to the June 6, 2015 injury and requested authorization for right shoulder surgery.

On January 22, 2016 OWCP additionally accepted partial rotator cuff tear of the right shoulder as caused by the June 6, 2015 employment injury. Dr. Lent performed right shoulder surgery on June 16, 2015, and provided follow-up care on June 23, 30, July 1 and 21, 2015.

By decision dated February 12, 2016, OWCP found that, based on the medical evidence of record, the additional diagnoses of lower back sprain, L5-S1 central disc herniation, and disc bulge at L4-5 were not proven to have been caused by the June 6, 2015 employment injury.

LEGAL PRECEDENT

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.² 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 employee.³ 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 causal relationship.⁴

ANALYSIS

The Board finds that appellant failed to meet her burden of proof to establish that her current lumbar conditions were caused by the June 6, 2015 employment injury. OWCP accepted that appellant sustained a fracture of the lower end of her right radius and a partial right rotator cuff tear when she fell at work on June 6, 2015. The record, however, does not support that the claimed lower back conditions were caused by this employment-related injury.

In the emergency department report on June 6, 2015, Dr. Kirkwood diagnosed right wrist fracture and noted that appellant denied other injuries. Dr. Lent saw appellant on June 9, 2015, and Dr. Spencer saw her on June 11, 2015. He performed surgery on June 16, 2015, and provided follow-up care on June 23, 30, July 1 and 21, 2015. Neither physician mentioned a low back injury in their reports, including Dr. Spencer's report on July 21, 2015.

It was not until July 1, 2015 that appellant maintained that, in addition to the fractured wrist, she also injured her shoulder and back and needed medical treatment for these conditions.

Dr. Lent reported on July 7, 2015 that appellant had examination findings of paraspinal tenderness in the upper lumbar and lower thoracic region and increased pain with range of motion. He diagnosed low back strain and contusion without further explanation. In reports dated August 4 to 25, 2015, Dr. Lent merely indicated that appellant had low back pain. While he checked a Form CA-20 box marked "yes" on August 14, 2015 indicating that the condition was employment related, when a physician's opinion on causal relationship consists only of checking a box, that opinion has little probative value and is insufficient to establish a causal relationship.⁵ Dr. Lent submitted additional CA-20 forms on September 15 and November 11, 2015 in which he diagnosed lower back sprain and, in addition to checking a box marked "yes" explained: "patient was hurt while at work." The Board finds this summary statement insufficient to establish causal relationship. Dr. Lent provided no rationale for this opinion.⁶

² *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

³ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

⁴ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

⁵ *Gary J. Watling*, 52 ECAB 278 (2001).

⁶ *See E.A.*, 58 ECAB 677 (2007).

Moreover, while repeating the history of injury on August 25, 2015, he noted appellant's description of the incident that, when she fell, she put her arm out to stop her fall and fell backwards onto her right shoulder. Dr. Lent did not mention appellant's back. In his most recent report, that of January 11, 2016, he discussed shoulder findings but did not discuss any back complaints or diagnoses.

The lumbar spine MRI scan dated November 30, 2015 did not provide a cause of any diagnosed conditions. The Board has long 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.⁷

The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to his federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.⁸ It is appellant's burden to establish that his claimed back condition is causally related to the work injury. In this case the medical evidence submitted was insufficient to establish that the diagnosed conditions at L4-5 and L5-S1 were caused by the June 6, 2015 employment injury.⁹

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 did not meet her burden of proof to expand the accepted conditions in her claim to include lower back sprain, L5-S1 central disc herniation, and disc bulge at L4-5.

⁷ *Willie M. Miller*, 53 ECAB 697 (2002).

⁸ *A.D.*, 58 ECAB 149 (2006).

⁹ *Supra* note 4.

ORDER

IT IS HEREBY ORDERED THAT the February 12, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 5, 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