

Counsel contends on appeal that appellant has submitted sufficient medical evidence to warrant acceptance or further development of her claim.

FACTUAL HISTORY

On May 26, 2015 appellant, then a 59-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she developed spondylolysis and spondylolisthesis due to her federal job duties. She first realized that her condition was due to her employment on May 12, 2015. Appellant reported that her condition caused difficulties with walking, sitting, and standing for long periods of time. She noted that casing mail, with lifting and twisting, increased her back pain. Appellant also reported that loading her mail truck was difficult due to severe pain from bending and lifting trays of mail. She noted that sitting in her truck increased her back pain.

In a report dated May 26, 2015, Dr. David E. Adelberg, a Board-certified orthopedic surgeon, indicated that appellant's symptom of back pain began about three months earlier. He diagnosed lumbar spondylolisthesis at L5-S1.

In a letter dated June 25, 2015, OWCP requested that appellant provide additional factual and medical evidence in support of appellant's occupational disease claim. It indicated that she should respond to this request within 30 days.

On July 7, 2015 the employing establishment noted that appellant had a mounted route driving for seven hours a day. Appellant was required to walk the remaining hour while casing her mail.

Appellant responded to OWCP on July 23, 2015 and described her job duties of twisting and turning while casing mail. She noted that she was required to bend to place the mail in her hamper. Appellant next lifted flats of mail from racks which ranged from overhead to floor level and bent to place these in her hamper. She was then required to load her truck from her hamper and to proceed to start her truck and deliver her route. Appellant noted that delivering packages caused additional strain on her back because she was required to pull up the emergency brake. Once her deliveries were completed, in approximately six hours, she then unloaded her truck. Appellant alleged that she was frequently required to work more than eight hours a day and on her days off, as the employing establishment was short staffed.

On July 21, 2015 Dr. Priscilla Shube, a Board-certified family practitioner, diagnosed spondylolisthesis, spinal stenosis, and left L5-S1 radiculopathy. She opined that appellant's symptoms were aggravated by activities at work including walking, prolonged sitting, bending, and lifting.

In a decision dated August 27, 2015, OWCP denied appellant's claim finding that the medical evidence did not establish that her diagnosed condition was caused or aggravated by her employment duties.

Counsel requested reconsideration on June 10, 2016 and submitted additional medical evidence.

In a report dated May 17, 2016, Dr. Byron V. Hartunian, an orthopedic surgeon, noted that appellant had worked at the employing establishment for 30 years and described her duties as a letter carrier including lifting, carrying, and moving up to 70 pounds. Appellant was required to perform repetitive climbing, squatting, bending, twisting, stooping, lifting, and reaching. Dr. Hartunian noted examination findings and reviewed her x-rays and magnetic resonance imaging scan. He diagnosed degenerative spondylolisthesis at L5-S1, herniated L4-5 and L5-S1 discs, lumbar degenerative facet and disc disease, and bilateral L4 and L5 radiculopathy. Dr. Hartunian opined that appellant's diagnosed conditions were permanently aggravated, accelerated, contributed to, and precipitated by her repetitive work as a letter carrier. He described the process by which degenerative arthritis and disc disease occurs including impact loading resulting from repeated local stresses and causing chronic inflammation.

Dr. Hartunian noted that appellant's job required impact loading activities such as constant and repetitive walking, standing, squatting, stooping, climbing, bending, lifting, carrying, and twisting activities. He opined that excessive impact loading and repeated local stresses caused mechanical stress on cartilage and disc surfaces resulting in chronic inflammation and then accelerated loss of articular cartilage and disc structure. Dr. Hartunian provided citations to medical publications in support of his opinions. He opined that appellant's spinal arthritis and disc degeneration would not have reached the point it had, but for her work activities. Dr. Hartunian concluded that her degenerative spine disease, herniated discs, and spondylolisthesis were hastened and accelerated by her work. He further noted that lower extremity loading activities such as repeated walking, standing, bending, kneeling, lifting, climbing, stooping, pushing, pulling, twisting, squatting, and carrying as required by appellant's position contributed to the development and progression of spinal arthritis and disc degeneration.

By decision dated September 2, 2016, OWCP denied modification of the August 27, 2015 decision. It found that Dr. Hartunian's report did not explain how appellant's conditions were permanently aggravated, contributed to, or precipitated by her work activities.

LEGAL PRECEDENT

OWCP's regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."³ 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 evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing causal relationship

³ 20 C.F.R. § 10.5(q).

between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.⁴

ANALYSIS

The Board finds that this case not in posture for a decision.

In support of her claim for an occupational disease resulting in the diagnosed conditions of degenerative spondylolisthesis at L5-S1, herniated L4-5 and L5-S1 discs, lumbar degenerative facet and disc disease, and bilateral L4 and L5 radiculopathy, appellant submitted reports from Drs. Adelberg and Shube. These report, however, provided no opinion on causal relationship. Thus, the Board finds that they are of no probative value and are insufficient to establish the claim.⁵

On reconsideration, appellant submitted a detailed report from Dr. Hartunian dated May 17, 2016. Dr. Hartunian described her job duties of lifting, carrying, climbing, squatting, bending, twisting, stooping, and reaching. He provided an opinion that appellant's employment duties contributed to her diagnosed conditions as her spinal arthritis and disc degeneration would not have reached the point it had, but for her work activities. Dr. Hartunian concluded that her degenerative spine disease, herniated discs, and spondylolisthesis were hastened and accelerated by her work. He also provided a detailed explanation of how and why appellant's repetitive employment duties resulted in excessive impact loading and repeated local stresses, which in turn caused mechanical stress on cartilage and disc surfaces resulting in chronic inflammation and then accelerated loss of articular cartilage and disc structure.

Dr. Hartunian's report contains a history of injury, diagnosis and an opinion that appellant's preexisting condition was exacerbated and accelerated by the accepted employment duties. While this report is not sufficient to meet her burden of proof, it does raise an uncontroverted inference of causal relation between her accepted employment factors and an exacerbation of her diagnosed condition sufficient to require further development of her claim.⁶

On remand OWCP should refer appellant, a statement of accepted facts, and a list of specific questions to an appropriate physician for a second opinion evaluation to determine if her diagnosed conditions of degenerative spondylolisthesis at L5-S1, herniated L4-5 and L5-S1 discs, lumbar degenerative facet and disc disease, and bilateral L4 and L5 radiculopathy were exacerbated and accelerated by the accepted employment duties. After this and such other development as OWCP deems necessary, OWCP should issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for a decision.

⁴ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

⁵ *Willie M. Miller*, 53 ECAB 697 (2002).

⁶ *John J. Carlone*, 41 ECAB 354, 358-60 (1989).

ORDER

IT IS HEREBY ORDERED THAT the September 2, 2016 decision of the Office of Workers' Compensation Programs is set aside and remanded for further development consistent with this decision of the Board.

Issued: March 8, 2017
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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