



## ISSUE

The issue is whether appellant established a back injury in the performance of duty as alleged.

## FACTUAL HISTORY

On October 20, 2015 appellant, then a 74-year-old rural carrier,<sup>3</sup> filed a traumatic injury claim (Form CA-1) alleging that he tripped and fell over a tub of mail at work on October 13, 2015, twisting his low back. He also struck his head on a table. Dr. Andrew Wackett, an attending physician Board-certified in emergency medicine, treated appellant in a hospital emergency room immediately after the incident. He obtained computerized tomography (CT) scans showing no significant findings in the brain and no acute lumbar or cervical spine fracture. Dr. Wackett diagnosed a head injury and a back sprain/strain. The employing establishment issued an authorization for examination and/or treatment (Form CA-16) on October 31, 2015.

In a November 4, 2015 letter, OWCP notified appellant of the additional evidence needed to establish his claim, including his attending physician's explanation of how and why the October 3, 2015 fall would cause the diagnosed conditions. It afforded appellant 30 days to submit such evidence.

In response, appellant provided a November 2, 2015 duty status report (Form CA-17) from Dr. Meciko A. Muharemovic, an attending Board-certified internist. On examination, Dr. Muharemovic found lumbosacral tenderness and paraspinal muscle spasm. He diagnosed an exacerbation of lumbar radiculopathy and a muscle strain of the low back. Dr. Muharemovic checked a box marked "yes" indicating his support for causal relationship between the diagnosis and the October 13, 2015 fall.

By decision dated December 10, 2015, OWCP accepted that the October 13, 2015 fall occurred at the time, place, and in the manner alleged, but it denied the claim because the medical evidence of record failed to establish causal relationship. It found that appellant's physicians failed to explain how and why the accepted October 13, 2015 incident would have caused a back injury.

In a December 30, 2015 letter, appellant requested an oral hearing, held May 6, 2016. During the hearing, he contended that he continued to be totally disabled from work due to the claimed back injury. The hearing representative explained the importance of providing his attending physician's opinion setting forth the medical mechanics of how the October 13, 2015 fall would cause a lumbar injury. Appellant submitted additional medical evidence.

Dr. Wackett provided an October 13, 2015 emergency room report, noting that appellant sustained a facial abrasion when he fell at work earlier that day.

An October 26, 2015 lumbar magnetic resonance imaging (MRI) scan demonstrated paraspinal osseous and soft tissue contusions with possible associate muscle or ligament strains

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<sup>3</sup> Appellant's date of birth was misstated on the claim form.

at T12-L1, a possible spinous process fracture, lumbar spondylosis with severe narrowing at L4-5, and severe foraminal narrowing at L3-4 and L4-5.

Dr. Muharemovic completed the Form CA-16 and a chart note on November 2, 2015. He noted the October 13, 2015 fall, and that appellant had preexisting lumbar radiculopathy. On examination, Dr. Muharemovic found lumbar tenderness and restricted motion. He diagnosed lumbar radiculopathy with paraspinal muscle spasms, lumbar disc disease without myelopathy, lumbosacral spondylosis, spinal stenosis, osteoarthritis, and bursitis of an unspecified hip. On the Form CA-16, Dr. Muharemovic checked a box marked “yes,” indicating his support for causal relationship. He noted on December 17, 2015 that appellant’s lumbar pain persisted despite epidural injections. Dr. Muharemovic diagnosed lumbar disc disease and lumbar stenosis. He prescribed physical therapy. Dr. Muharemovic held appellant off work through December 22, 2015 and referred him for additional lumbar epidural steroid injections.<sup>4</sup>

In an April 13, 2016 report, Dr. Morgan Chen, an attending Board-certified orthopedic surgeon specializing in spine surgery, noted a history of the October 13, 2015 fall and subsequent treatment. He first examined appellant on January 13, 2016. Dr. Chen opined that the October 26, 2015 lumbar MRI scan showed multilevel degenerative disc disease and facet hypertrophy consistent with degenerative arthritis. He explained that it was “within reasonable medical certainty that his fall aggravated his arthritic changes in the lumbar spine, causing him to have pain after his fall. It is also within reasonable medical certainty that the fall at his workplace has a causal relationship with his current symptoms.”

Dr. Chen also submitted a June 3, 2016 report, noting appellant’s history of injury and treatment. He explained that flexion and extension of the lumbar spine during the October 13, 2015 fall was consistent with a mechanism that would exacerbate or reveal symptoms of lumbar arthritis. “Flexion of the lumbar spine caused shearing forces to be applied to the anterior osteophytes, which caused inflammation of those osteophytes and resulted in pain. Extension of the lumbar spine caused shearing forces to be applied to the facet joints, promoting inflammation and also causing pain.” Dr. Chen opined that, based on this pathophysiologic mechanism, the accepted fall aggravated preexisting lumbar arthritis, causing appellant’s symptoms.

By decision dated July 25, 2016, OWCP’s hearing representative affirmed OWCP’s December 10, 2015 decision, finding that the medical evidence was insufficiently rationalized to establish causal relationship.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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 and/or specific condition for which compensation is claimed are causally related to

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<sup>4</sup> Appellant underwent an L4-5 epidural steroid injection on January 8, 2016.

the employment injury.<sup>5</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>6</sup>

To determine whether an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether “fact of injury” has been established. Generally, fact of injury consists of two components that must be considered conjunctively. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident that is alleged to have occurred.<sup>7</sup> 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.<sup>8</sup>

The medical evidence required to establish causal relationship is generally rationalized medical opinion 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.<sup>9</sup>

### ANALYSIS

Appellant claimed that he sustained a lumbar injury when he tripped and fell over a tub of mail on October 13, 2015. In support of his claim, he submitted October 13, 2015 emergency room reports signed by Dr. Wackett, an attending physician Board-certified in emergency medicine, diagnosing a back sprain/strain and a head contusion.

Dr. Muharemovic, an attending Board-certified internist, diagnosed an exacerbation of lumbar radiculopathy. He checked boxes on a November 2, 2015 duty status report (Form CA-17) and November 2, 2015 authorization for treatment (Form CA-16) indicating his support for a causal relationship between the October 13, 2015 fall and a lumbar injury. However, the Board has held that when a physician’s opinion on causal relationship consists only of checking a box marked “yes” to a form question, without the addition of adequate medical rationale, that opinion has little probative value and is insufficient to establish causal relationship.<sup>10</sup>

Appellant also provided April 13 and June 3, 2016 reports from Dr. Chen, an attending Board-certified orthopedic surgeon specializing in spinal surgery. Dr. Chen described the

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<sup>5</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>7</sup> *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>8</sup> *Deborah L. Beatty*, 54 ECAB 340 (2003).

<sup>9</sup> *Solomon Polen*, 51 ECAB 341 (2000).

<sup>10</sup> *See D.D.*, 57 ECAB 734, 739 (2006); *supra* note 8.

October 13, 2015 fall and reviewed appellant's medical records. He opined that the flexion -- extension mechanism of the fall aggravated arthritic changes in the lumbar spine. Dr. Chen explained that lumbar flexion caused shearing forces on the anterior osteophytes, and extension caused shearing force on the facet joints, resulting in inflammation of both sets of structures. He opined that this inflammation constituted an objective aggravation of preexisting lumbar arthritis.

The Board finds that although Dr. Chen's opinion is insufficiently rationalized to meet appellant's burden of proof in establishing causal relationship,<sup>11</sup> it is uncontroverted and of sufficient probative quality to warrant additional development.<sup>12</sup> Dr. Chen provided a detailed explanation of how the physical forces of the accepted October 13, 2015 fall resulted in inflammation of lumbar facet joints and anterior osteophytes. His opinion is of convincing probative quality. However, OWCP did not undertake further development of the medical record, such as referring the record to an OWCP medical adviser, or referring appellant for a second opinion examination.

Proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence. It has the obligation to see that justice is done.<sup>13</sup> The case must be remanded to OWCP for preparation of a statement of accepted facts concerning the accepted October 13, 2015 fall and appellant's medical history, and referral of the matter to an appropriate medical specialist, consistent with OWCP's procedures, to determine whether appellant sustained a back injury as alleged. Following this and any other development deemed necessary, OWCP shall issue an appropriate merit decision in the case.

### CONCLUSION

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

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<sup>11</sup> See *Frank D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

<sup>12</sup> *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 280 (1978).

<sup>13</sup> *Jimmy A. Hammons*, 51 ECAB 219 (1999); *Marco A. Padilla*, 51 ECAB 202 (1999); *John W. Butler*, 39 ECAB 852 (1988).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated July 25, 2016 is set aside, and the case is remanded to OWCP for additional development consistent with this opinion.

Issued: May 19, 2017  
Washington, DC

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

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

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