



new injury, and that appellant had complained of back pain upon arrival to work, and that appellant had previously taken weekly Family and Medical Leave Act absences for his back pain. He explained that appellant had a lifting weight limitation and that this injury was a recurrence of an injury from 2012.<sup>2</sup>

In a narrative statement, appellant noted a prior claim under OWCP File No. xxxxxx897, and explained that, on March 10, 2016, he began work with a low level of back pain, which was not unusual due to injuries he had sustained in 2008 and 2012. He noted that he had a push/pull/lift weight limitation of 20 pounds. On March 10, 2016 appellant cleared tray line jams, which he claimed did not exceed his weight limitations the vast majority of the time. He received a call to clear a bucket jam from a flat sorter where at least a dozen buckets were stuck due to the fact that they were overloaded and overweight. Appellant noted that this situation occurred because the mail limitation sensors on the flat sorter were in need of adjustment. He stated that, at the time, he was not conscious of the fact that, in order to clear the bucket jam, he would exceed his weight limitation. Appellant claimed that this activity aggravated his prior accepted lower back injuries to the extent that he was incapacitated from work.

In a statement dated March 15, 2016, a supervisor noted that she felt the claim should be treated as a recurrence, but asked for guidance as to whether it should be treated as a new claim. She requested that OWCP further develop the case.

In a medical report dated May 9, 2016, Dr. Joshua B. Reimer, Board-certified in sports medicine and physical medicine and rehabilitation, reviewed a magnetic resonance imaging (MRI) scan of appellant's lumbar spine. He diagnosed lumbar neuritis associated with stenosis and disc herniation. In an attached work status report, Dr. Reimer recommended work restrictions of no heavy lifting, carrying, pushing, or pulling over 20 pounds, and stated that appellant could return to work on May 15, 2016.

In an undated letter, appellant responded to an OWCP development questionnaire related to recurrence. He stated that the work he performed either caused his back injury or aggravated his preexisting conditions. Appellant noted that the decision to process his claim as a recurrence was made by a supervisor. He explained that he did not know why the supervisor connected the recurrence to his claim in OWCP File No. xxxxxx897 rather than his claim in OWCP File No. xxxxxx619. Appellant noted that the supervisor had asked for guidance, but did not receive a reply. He expressed dissatisfaction with how the supervisor had handled his claim.

In a report dated March 23, 2016, Dr. Reimer stated that appellant was injured in a workplace encounter, when he was pulling on heavy buckets. He performed a physical examination and reviewed appellant's x-rays of the lumbar spine. Dr. Reimer noted that the x-ray demonstrated mild disc dehydration with possibly grade 1 L5-S1 spondylolisthesis and mild spondylosis. He stated that appellant was 100 percent disabled from his usual occupation.

In a memorandum to the file dated June 14, 2016, OWCP listed appellant's prior claims. Under OWCP File No. xxxxxx619, accepted on July 2, 2009, it accepted a sprain of the lumbar

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<sup>2</sup> Attached to the Form CA-2 was an OWCP memorandum dated June 14, 2016 in which OWCP determined that appellant's claim would be treated as a new, occupational disease claim because new work factors were cited.

region and placed appellant on the daily compensation rolls. Under OWCP File No. xxxxxx525, on February 8, 2010, OWCP accepted an occupational disease claim for thoracic or lumbosacral neuritis or radiculitis, unspecified, and again placed him on the daily compensation rolls.

On May 11, 2016 appellant accepted an offer of limited duty as a maintenance mechanic with restrictions of no pushing, pulling, or lifting over 20 pounds; and no excessive bending over.

By letter dated July 20, 2016, OWCP informed appellant that his claim was being treated as a claim for occupational disease. It noted that he had not submitted a physician's opinion as to the cause of his claimed injury, and asked him to respond to a questionnaire. Appellant was afforded 30 days to submit the necessary evidence.

In a diagnostic report dated April 15, 2016, Dr. Michael Greene, Board-certified in diagnostic radiology, examined the results of an MRI scan of appellant's lumbar spine. He stated his opinion that the L2-3 level demonstrated posterior central focal herniation with an annular tear causing impingement upon the anterior thecal sac and bilateral neural foramina, with displacement of the anterior nerve roots, and canal stenosis; that the L3-4 level demonstrated a broad-based disc bulge with right paracentral focal herniation causing impingement upon the anterior thecal sac and bilateral neural foramina, right greater than left, and contact with the right-sided L4 nerve root; that the L4-5 level demonstrated a broad-based disc bulge causing impingement upon the anterior thecal sac and bilateral neural foramina; that the L5-S1 level demonstrated bilateral pars defects with grade 1 spondylolisthesis of L5 on S1, with a pseudo-disc bulge causing impingement upon the bilateral foramina and contact with the exiting bilateral L5 spinal nerves; and that appellant had straightening of the normal lumbar lordosis indicative of muscular spasm..

In a medical report dated August 1, 2016, Dr. Reimer provided results on examination and diagnosed lumbar neuritis, spondylosis, spinal stenosis, and spondylolisthesis. He related, "Please note it is my opinion that [appellant's] workplace event of pushing heavy buckets while working on March 10, 2016 did aggravate the underlying spinal condition of stenosis and spondylolisthesis contributing to neurotic symptoms in the lower extremity and a flare in his overall pain."

On August 6, 2016 appellant responded to OWCP's development questionnaire. He stated that he believed that a repetition of performing the same type of assignment he performed on March 10, 2016 had caused his claimed injuries. Appellant noted that he first became aware of his condition in 2008, for which he filed OWCP File No. xxxxxx619, and again in 2012 filed OWCP File number xxxxxx897.

By decision dated September 12, 2016, OWCP denied appellant's claim. It found that he had not submitted a sufficiently rationalized medical opinion establishing that his claimed conditions were causally related to factors of his federal employment.

On October 7, 2016 appellant requested a review of the written record before an OWCP hearing representative.

In a report dated October 5, 2016, Dr. Reimer examined appellant and diagnosed spinal stenosis and neuritic lower extremity pain, stable. He again related, “As it has been previously indicated on chart notes, I will iterate that the injury, which took place on March 10, 2016 when [appellant] was pushing and manipulating heavy buckets, did aggravate his spinal stenosis and spondylolisthesis contributing to his neuritis symptoms in his lower extremities.”

In a statement dated October 5, 2016, appellant argued that the fact that his employment caused his diagnosed medical conditions was proven and accepted in his 2008 claim, OWCP File No. xxxxxx619.

By decision dated March 13, 2017, an OWCP hearing representative affirmed the September 12, 2016 decision. She found that the alleged employment factors occurred as alleged, but that appellant had not submitted rationalized medical evidence to establish that the accepted employment factors caused a low back condition.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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.<sup>4</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.<sup>5</sup>

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.<sup>6</sup> 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

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *Gary J. Watling*, 52 ECAB 278-79 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *Michael E. Smith*, 50 ECAB 313, 315 (1999).

<sup>6</sup> *Roma A. Mortenson-Kindschi*, 57 ECAB 418, 428 n.37 (2006); *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.<sup>7</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>8</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's reasoned opinion on whether there is a 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 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> 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.<sup>10</sup>

### ANALYSIS

Appellant alleged a recurrence of disability on March 10, 2016 due to clearing a jam on the sorter machine and lifting heavy buckets. OWCP developed the claim as an occupational disease claim based on new employment factors.

The Board finds that appellant has failed to submit sufficient medical evidence to establish that the accepted factors of his federal employment caused or aggravated his lower back conditions.

In a report dated March 23, 2016, Dr. Reimer stated that appellant was injured in a workplace encounter, when he was pulling on heavy buckets. He performed a physical examination and reviewed appellant's x-rays of the lumbar spine. Dr. Reimer noted that the x-ray demonstrated mild disc dehydration with possibly grade 1 L5-S1 spondylolisthesis and mild spondylosis. He stated that appellant was 100 percent disabled from his usual occupation.

In a memorandum to the file dated June 14, 2016, OWCP listed appellant's prior claims. Under OWCP File No. xxxxxx619, on July 2, 2009, it had accepted a sprain of the lumbar region and placed him on the daily rolls. Under OWCP File No. xxxxxx525, on February 8, 2010, OWCP accepted thoracic or lumbosacral neuritis or radiculitis, unspecified, and placed appellant on the daily rolls. The Board notes that he has explained that the repetitive performance of the activities he described as occurring on March 10, 2016 caused or aggravated his low back conditions.

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<sup>7</sup> *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

<sup>8</sup> *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117, 123 (2005).

<sup>9</sup> *Leslie C. Moore*, 52 ECAB 132, 134 (2000).

<sup>10</sup> *Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

In a medical report dated August 1, 2016, Dr. Reimer examined appellant and diagnosed lumbar neuritis, spondylosis, spinal stenosis, and spondylolisthesis. He related that appellant's pushing heavy buckets while working on March 10, 2016 aggravated the underlying spinal condition of stenosis and spondylolisthesis contributing to neurotic symptoms in the lower extremity and a flare in his overall pain.

In a report dated October 5, 2016, Dr. Reimer examined appellant and diagnosed with spinal stenosis and neuritic lower extremity pain, stable. He noted, "As it has been previously indicated on chart notes, I will iterate that the injury, which took place on March 10, 2016 when [appellant] was pushing and manipulating heavy buckets did aggravate his spinal stenosis and spondylolisthesis contributing to his neuritis symptoms in his lower extremities."

The Board finds that, while Dr. Reimer noted the diagnoses as aggravation of spinal stenosis and spondylolisthesis, these were not the accepted conditions in appellant's prior claims. Dr. Reimer's reports are insufficient to establish appellant's claim because they lack a detailed biomechanical explanation of how the accepted factors of appellant's employment caused or aggravated appellant's currently diagnosed conditions.<sup>11</sup> The Board has found that rationalized medical opinion evidence must relate specific employment factors identified by the claimant to the claimant's condition, with medical rationale explaining how the employment factors physiologically caused the diagnosed condition.<sup>12</sup> The Board has also found that a mere conclusion without the necessary rationale is insufficient to meet a claimant's burden of proof.<sup>13</sup> Accordingly, Dr. Reimer's reports are insufficient to meet appellant's burden of proof.

In support of his claim, appellant also submitted a diagnostic report dated April 15, 2016 from Dr. Greene. Reports of diagnostic tests, are of limited probative value as they fail to provide an opinion on the causal relationship between his accepted factors of employment and his diagnosed conditions. For this reason, this evidence is insufficient to meet appellant's burden of proof.<sup>14</sup>

OWCP advised appellant that it was his responsibility to provide a comprehensive medical report which provided a rationalized medical opinion causally relating the diagnosed conditions to the accepted factors of employment. Appellant failed to do so. He has therefore not met his burden of proof to establish an occupational disease causally related to factors of employment.

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.

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<sup>11</sup> See *V.G.*, Docket No. 17-0067 (issued April 5, 2017).

<sup>12</sup> See *T.C.*, Docket No. 16-1052 (issued November 8, 2016).

<sup>13</sup> See *T.M.*, Docket No. 08-0975 (issued February 6, 2009); *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *William C. Thomas*, 45 ECAB 591 (1994) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

<sup>14</sup> *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

**CONCLUSION**

The Board finds that appellant has not established an aggravation of his lower back conditions causally related to factors of his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 13, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 13, 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