

FACTUAL HISTORY

On March 30, 2016 appellant, then a 58-year-old, sales and service associate, filed a traumatic injury claim (Form CA-1) alleging that on March 10, 2016 he twisted his back when his right foot slipped while he lifted a package causing him to lunge forward. On the reverse side of the claim form it was noted that he stopped work on March 10, 2016.

In a March 30, 2016 letter, the employing establishment controverted appellant's claim due to lack of evidence to establish causal relationship and fact of injury.

By letter dated April 1, 2016, OWCP advised appellant that the evidence submitted was insufficient to establish his claim. It requested that he respond to an attached development questionnaire in order to substantiate the factual elements of his claim. Appellant was also requested to provide additional medical evidence to establish that he sustained a diagnosed condition as a result of the alleged employment incident. He was afforded 30 days to submit the necessary evidence.

Appellant thereafter submitted medical reports from Dr. Ernest C. Severn, an osteopath specializing in family medicine, who related in a March 14, 2016 report that on March 10, 2016 appellant felt his back pop when he reached down to lift something out of a box and his right foot slipped. Dr. Severn noted appellant's complaints of low back pain across the whole lower back, worse on the right side. He reviewed appellant's history and conducted an examination of appellant's lower back. Dr. Severn reported some mild vertebral tenderness and some tenderness in the paravertebral muscles with no edema or ecchymosis. Straight leg raise testing was negative bilaterally. Motor and sensory examinations were normal bilaterally. Dr. Severn also observed tenderness in the paraspinal muscles and over the thoracic vertebrae of appellant's upper back. He indicated that examination of appellant's neck revealed mildly limited range of motion. Dr. Severn diagnosed acute right-sided thoracic back pain, acute bilateral low back pain without sciatica, and cervicalgia. He related that lumbar spine x-ray examinations were negative.

In a March 14, 2016 work excuse note, Dr. Severn requested that appellant be excused from work due to injury. He explained that it would be difficult to predict when appellant would be able to return to work.

Dr. Severn indicated in an April 6, 2016 attending physician's report (Form CA-20) that appellant felt his back popped when he reached down for something in a mail box and his foot slipped. He reported examination findings of pain and tenderness on palpation and abnormal gait. Dr. Severn noted that the lumbar x-ray examination was negative. He diagnosed right-sided thoracic pain, bilateral lumbar pain, and cervicalgia. Dr. Severn checked a box marked "yes" indicating that appellant's condition was caused or aggravated by an employment activity. He indicated that appellant was totally disabled beginning March 11, 2016.

On April 21, 2016 appellant responded to OWCP's development questionnaire. In a narrative statement, he explained that on March 10, 2016 at approximately 7:15 p.m. he reached for a package at the bottom of the priority gaylord box when his right foot slipped and he fell forward. Appellant noted that he twisted his back, felt pain, and heard a "pop." He explained that he went home, took some Ibuprofen, and put some icy hot on his back. Appellant related

that the next day he drove back to work to get his paycheck and told B.M., his supervisor, about what happened the night before. He noted that he could not stand up straight and was moving very slowly. Appellant indicated that on Monday he sought medical treatment from Dr. Severn because his back pain was not getting any better. He related that Dr. Severn drafted a letter taking him off work. Appellant also alleged that there was no delay in filing his claim. He noted that he wrote a description of how the accident happened and gave it to B.M. on March 21, 2016. Appellant further indicated that on March 25, 2016 he met with Postmaster J.C. who entered his injury claim on the computer.

On April 21, 2016 appellant submitted an undated statement. He explained that on March 10, 2016, towards the end of his shift, he was trying to retrieve a box from the bottom of one of the gaylords when his right foot slipped and he twisted his back. Appellant noted that he immediately heard his back pop and struggled to get himself upright with the package.

OWCP denied appellant's claim in a decision dated May 4, 2016. It accepted that the March 10, 2016 employment incident occurred as alleged, but denied his claim because the medical evidence submitted failed to establish a diagnosed condition causally related to the accepted incident. Therefore, fact of injury was not established.

On June 7, 2016 appellant requested a review of the written record by a hearing representative from OWCP's Branch of Hearings and Review. In a June 1, 2016 statement, he noted that his claim was denied because medical evidence was required that established a diagnosed medical condition causally related to the work injury or event. Appellant explained that to meet these requirements he was submitting a May 27, 2016 letter from Dr. Severn, April 25 and May 13, 2016 medical records from Dr. Armen Khachatryan, a Board-certified orthopedic surgeon, and various diagnostic reports.

Appellant submitted a March 14, 2016 lumbar spine x-ray examination report by Dr. Benjamin H. Gordon, a Board-certified radiologist, who indicated that there was no evidence of fracture or malalignment of the lumbar spine.

In an April 19, 2016 progress note, Dr. Severn related that appellant was examined for follow-up of back and neck pain and weakness in his legs. He reported slow and stiff gait upon physical examination of appellant's back and diagnosed acute bilateral low back pain without sciatica.

Appellant submitted reports by Dr. Khachatryan dated April 25 and May 13, 2016. Dr. Khachatryan noted that on March 10, 2016 appellant was working when he realized that he threw some mail in the wrong bin. Appellant bent down to pick the mail up out of the bin and felt a pop in his back. He complained of severe pain along his back and the right posterior aspect of his leg. Appellant explained that since his injury he had been taking Ibuprofen and limiting his work activity as related to lifting, turning, and bending. Dr. Khachatryan reviewed appellant's history and conducted an examination of his lower back. He reported pain on palpation and some pain over neck musculature on palpation. Dr. Khachatryan related that appellant was unable to stand up in the upright position due to worsening right leg pain. He indicated normal strength throughout the rest of appellant's upper and lower extremities and 3/5 strength in the hamstring. Neurologic examination revealed slight numbness to light touch on

the posterior aspect of appellant's right leg. Sensation was normal throughout his upper and lower extremities. Dr. Khachatryan diagnosed back pain, right-sided lumbar radiculopathy, slight neuropathy with weakness, neck pain, and C5-6, C6-7 degenerative disc disease.

In a May 13, 2016 report, Dr. Khachatryan noted that he reviewed several diagnostic reports. He reported that appellant had a "work-related injury, which at the current time is not something that could be explained by any type of back injury." Dr. Khachatryan recommended that appellant return to light duty.

Appellant also underwent various diagnostic examinations on May 2, 2016. In a cervical spine magnetic resonance imaging (MRI) scan report, Dr. Logan Arron Mclean, a Board-certified diagnostic radiologist, observed mild generalized parenchymal atrophy and no evidence of acute intracranial abnormality. In a thoracic spine MRI scan report, he noted multilevel mild degenerative disc disease and no thoracic malalignment, spinal canal, or foraminal stenosis. In a lumbar spine MRI scan report, Dr. John N. Henrie, a Board-certified diagnostic radiologist, reported minor degenerative changes, L5-S1 small right posterolateral annular tear, and no central or foraminal stenosis. In a cervical spine MRI scan report, he noted degenerated disc at C5-6 with central stenosis, mild-to-moderate right foraminal stenosis at C5-6, and acquired modest left foraminal stenosis, mild foraminal narrowing on the right.

Dr. Severn indicated in a May 27, 2016 letter that appellant shared with him a copy of the OWCP letter, which denied appellant's claim for benefits. He related that he had initially treated appellant on March 14, 2016 following the alleged March 10, 2016 "work injury." Dr. Severn noted that OWCP already had a copy of his notes and diagnostic reports. He explained that when a patient initially presents for treatment and a full diagnostic evaluation is not complete, the definitive diagnosis is still to be determined. Dr. Severn indicated that the additional evaluation that had occurred since appellant's initial visit had provided a definitive diagnosis of right-sided lumbar radiculopathy, slight neuropathy, and degenerative cervical discs. He noted that later an MRI scan showed a herniated C5-6 disc. Dr. Severn reported that "as a result of the injury [appellant] sustained at work there was a marked increase in his symptoms of neck and back pain" and marked decrease in appellant's ability to function. He opined that appellant's C5-6 disc herniation as seen in the MRI scan resulted from the "work injury" in question. Dr. Severn noted that appellant's degenerative disc disease was present and the "work injury" caused the herniation, the symptoms, and decreased function.

Appellant also submitted various laboratory test results.

By decision dated October 25, 2016, an OWCP hearing representative affirmed the May 4, 2016 decision with modification. She found that the medical evidence was insufficient to establish that appellant's diagnosed medical conditions were causally related to the March 10, 2016 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence⁴ including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether “fact of injury” has been established.⁶ There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged.⁷ Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.⁸ An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability or condition relates to the employment incident.⁹

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence.¹⁰ The opinion of the physician must be based on a complete factual and medical background of the employee, 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.¹¹ The weight of the 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.¹²

³ *Supra* note 1.

⁴ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁵ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

⁷ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁸ *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

¹⁰ *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

¹¹ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

¹² *James Mack*, 43 ECAB 321 (1991).

ANALYSIS

Appellant alleged that he sustained a lower back injury as a result of a March 10, 2016 work incident. OWCP accepted that the March 10, 2016 incident occurred as alleged. However, it denied appellant's claim finding insufficient medical evidence to establish that his diagnosed back condition was causally related to the accepted incident. The Board finds that he has not established that he sustained a back injury on March 10, 2016.

Appellant submitted a series of medical reports by Dr. Severn. In a March 14, 2016 report, Dr. Severn related that on March 10, 2016 appellant felt a "pop" in his back when he reached down to lift something out of a box and his right foot slipped at work. He reviewed appellant's history and conducted an examination of appellant's back and neck. Dr. Severn reported some mild vertebral tenderness and some tenderness in the paravertebral muscles with no edema or ecchymosis. He noted diagnosed acute right-sided thoracic back pain, acute bilateral low back pain without sciatica, and cervicgia. In an April 6, 2016 Form CA-20, Dr. Severn checked a box marked "yes" that appellant's condition was caused or aggravated by his employment. He, however, did not provide any explanation or offer any medical rationale to support his opinion on causal relationship. The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.¹³

Dr. Severn further indicated in a May 27, 2016 letter that after additional evaluation and review of appellant's diagnostic examinations, he diagnosed right-sided lumbar radiculopathy, slight neuropathy, and degenerative cervical discs. He opined that appellant's C5-6 disc herniation resulted from the "work injury" in question. Dr. Severn noted that appellant's degenerative disc disease was present and the "work injury" caused the herniation, the symptoms, and decreased function. Although he provided an affirmative opinion which supported causal relationship, he did not offer any rationalized medical explanation to support his opinion. Medical evidence that merely states a conclusion and does not offer any rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁴

Similarly, in April 25 and May 13, 2016 reports, Dr. Khachatryan provided a history of injury and physical examination findings. He diagnosed back pain, right-sided lumbar radiculopathy, neck pain, and C5-6, C6-7 degenerative disc disease and opined that appellant sustained a work-related injury. In his May 13, 2016 report, Dr. Khachatryan noted that appellant had a work-related injury, but his condition could not be explained by a back injury. The Board has found that a physician must provide a narrative description of the identified employment incident and a reasoned opinion on whether the employment incident described caused or contributed to appellant's diagnosed medical condition.¹⁵ Dr. Khachatryan's opinion

¹³ *D.D.*, 57 ECAB 734, 738 (2006); *Deborah L. Beatty*, 54 ECAB 340 (2003).

¹⁴ *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

¹⁵ *John W. Montoya*, 54 ECAB 306 (2003).

was vague and unrationalized as to whether appellant's diagnosed conditions were caused by his employment injury.¹⁶

As neither Dr. Severn nor Dr. Khachatryan provided medical rationale to support their conclusions regarding causal relationship, their reports are insufficient to establish appellant's claim.¹⁷

Appellant also submitted various diagnostic examination reports, including a March 14, 2016 lumbar x-ray examination report by Dr. Gordon, May 2, 2016 cervical and thoracic MRI scan spine reports by Dr. Mclean, and May 2, 2016 lumbar and cervical spine MRI scan reports by Dr. Henrie. While these physicians provided various diagnoses for appellant's lumbar and cervical spine, none of the physicians provided any opinion on the cause of his diagnosed conditions. The Board has 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.¹⁸ As none of the physicians offered an opinion on whether appellant's back condition was causally related to his employment, the diagnostic reports are insufficient to establish his claim.¹⁹

On appeal appellant alleges that Dr. Severn and Dr. Khachatryan provided rationalized medical opinions that his lumbar and neck conditions were causally related to the May 10, 2016 employment incident. As previously explained, however, the medical evidence of record fails to establish that he sustained a back condition as a result of the accepted May 10, 2016 work incident.

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 not met his burden of proof to establish a back injury causally related to the accepted March 10, 2016 employment incident.

¹⁶ See *Theron J. Barham*, 34 ECAB 1070 (1983) vague and unrationalized medical opinions on causal relationship have little probative value.

¹⁷ *S.E.*, Docket No. 08-2214 (issued May 6, 2009) *T.M.*, Docket No. 08-0975 (February 6, 2009).

¹⁸ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, *supra* note 14.

¹⁹ *R.E.*, Docket No. 10-0679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

ORDER

IT IS HEREBY ORDERED THAT the October 25, 2016 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 2, 2017
Washington, DC

Patricia H. Fitzgerald, Deputy 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