

FACTUAL HISTORY

On August 1, 2014 appellant, then a 32-year-old transportation security officer, filed a traumatic injury claim (Form CA-1) alleging that she sustained a lower back injury on July 31, 2014 as a result of falling over baggage in the performance of duty. OWCP accepted the claim for a back contusion.

Appellant submitted an August 1, 2014 magnetic resonance imaging (MRI) scan of the lumbar spine which revealed lower lumbar spondylosis.

In an August 1, 2014 report, Dr. Maria Cristina Salumbides, a family practitioner, diagnosed back pain, back contusion, and history of herniated disc. She reported that appellant stepped back at a baggage drop-off and did not notice baggage that had just been placed behind her. Appellant lost her footing and fell backwards over the baggage, hitting the floor, and landing on her lower back.

Appellant accepted a limited-duty position on August 2, 2014.

In a January 5, 2015 report, Dr. Felix Kirven, a Board-certified orthopedic surgeon, diagnosed lumbar radiculopathy with lumbar herniated nucleus pulposus (HNP)/lumbar strain and a large herniated disc at L5-S1, and a herniated disc at L3-5 based on his review of a lumbar spine MRI scan dated December 22, 2014. He noted that appellant's lower back pain and right-sided leg numbness and tingling had been ongoing since her work-related accident.

In a March 9, 2015 development letter, OWCP advised appellant of the deficiencies of her request to expand her claim to include additional accepted conditions and afforded her 30 days to submit additional evidence and respond to its inquiries.

In response appellant submitted a March 14, 2015 narrative statement and a December 22, 2014 MRI scan of the lumbar spine demonstrating L3-5 disc protrusion with moderate-to-severe central spinal canal stenosis and L5-S1 disc protrusion with mild stenosis.

Appellant further submitted attending physician's reports (Form CA-20) and duty status reports (Form CA-17) dated January 5, 2015 through June 14, 2016 from Dr. Kirven who reiterated his diagnoses.

By decision dated August 5, 2016, OWCP denied appellant's request to expand her claim, finding that the medical evidence of record was insufficient to establish causal relationship between her additional diagnosed conditions of spinal stenosis and herniate disc and the July 31, 2014 employment injury.

On August 17, 2016 appellant requested reconsideration and argued that the July 31, 2014 employment injury had exacerbated a preexisting condition that was asymptomatic until she fell. She also submitted an attending physician's report (Form CA-20) and duty status report (Form CA-17) dated August 10, 2016 from Dr. Kirven who released her to regular duty without restrictions.

In an August 10, 2016 report, Dr. Kirven diagnosed lumbar contusion and lumbar herniated disc. He opined that appellant sustained a lumbar contusion as a result of her July 31, 2014 employment injury, however, she aggravated her preexisting disc herniation in the lumbar spine at L3-4. Dr. Kirven noted that she was largely asymptomatic prior to the July 31, 2014 employment injury and that the act of falling over baggage caused inflammation of her back, which subsequently released neuropeptides causing nerve root irritation. He provided temporary work restrictions of no heavy lifting for the next six months.

By decision dated November 14, 2016, OWCP denied modification of its prior decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury² was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.³

Where an employee claims that, a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.⁴ To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁵

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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.⁶

² OWCP regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee).

³ See *T.H.*, 59 ECAB 388 (2008).

⁴ See *C.W.*, Docket No. 17-1636 (issued April 25, 2018); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁵ See *C.W.*, *id.*; see also *John D. Jackson*, 55 ECAB 465 (2004).

⁶ *Id.*

ANALYSIS

OWCP has accepted that the employment incident of July 31, 2014 occurred at the time, place, and in the manner alleged and resulted in the accepted condition of a back contusion. The issue is whether appellant's additional spinal conditions also resulted from the July 31, 2014 employment injury. The Board finds that she has not met her burden of proof to establish causal relationship between the additional spinal conditions for which compensation is claimed and the accepted July 31, 2014 employment injury.

In his reports, Dr. Kirven diagnosed lumbar radiculopathy with HNP, a large herniated disc at L5-S1, and a herniated disc at L3-5. On August 10, 2016 he opined that appellant sustained a lumbar contusion as a result of her July 31, 2014 employment injury, however, she aggravated her preexisting disc herniation in the lumbar spine at L3-4. Dr. Kirven noted that she was largely asymptomatic prior to the July 31, 2014 employment injury in which she fell over baggage which caused inflammation of her back, which subsequently released neuropeptides causing nerve root irritation. The Board finds that he failed to provide sufficient medical rationale explaining the mechanism of how falling over baggage at work on July 31, 2014 caused or aggravated appellant's additional spinal conditions. Dr. Kirven noted that her conditions occurred while she was at work, but such generalized statements do not establish causal relationship because they merely repeat her allegations and are unsupported by adequate medical rationale explaining how her physical activity at work actually caused or aggravated the diagnosed conditions.⁷ His opinion was also based, in part, on a temporal correlation. However, the Board has held that 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 a causal relationship.⁸ The need for rationale is particularly important as the evidence of record indicates that appellant had a preexisting herniated disc condition. Dr. Kirven did not otherwise sufficiently explain the reasons why diagnostic testing and examination findings led him to conclude that the July 31, 2014 work injury caused or contributed to the diagnosed spinal conditions. Thus, the Board finds that his reports are insufficient to establish that appellant sustained an additional employment-related injury.

The Board also finds that Dr. Salumbides' diagnosis of back pain and history of herniated disc is a description of a symptom rather than a clear diagnosis of the medical condition.⁹ Moreover, 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.¹⁰ Again, the need for rationale is particularly important as this evidence indicates that appellant had a preexisting herniated disc condition. For these reasons, the Board finds that the reports from

⁷ See *K.W.*, Docket No. 10-0098 (issued September 10, 2010).

⁸ See *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

⁹ The Board has consistently held that pain is a symptom, rather than a compensable medical diagnosis. See *P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

¹⁰ See *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

Dr. Salumbides are insufficient to establish a spinal injury causally related to the July 31, 2014 work injury.

Other medical evidence of record, including diagnostic test reports, is of limited probative value and insufficient to establish the claim as such evidence does not specifically address whether appellant's diagnosed conditions are causally related to the July 31, 2014 work injury.¹¹

The Board finds that appellant has not submitted rationalized medical evidence sufficient to establish that she sustained an additional spinal injury causally related to the July 31, 2014 employment injury. As such, appellant has not met her burden of proof.

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 her burden of proof to establish that her claim should be expanded to include additional spinal conditions as causally related to the accepted July 31, 2014 employment injury.

¹¹ See *K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Linda I. Sprague*, 48 ECAB 386 (1997) (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).

ORDER

IT IS HEREBY ORDERED THAT the November 14, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 12, 2018
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board