

FACTUAL HISTORY

This case has previously been before the Board.³ The facts of the case as presented in the prior decision are incorporated herein by reference. The relevant facts are as follows.

On October 27, 2010 appellant, then a 36-year-old veterans' service representative (VSR) claims examiner, filed a traumatic injury claim (Form CA-1) alleging that, on October 25, 2010, while in the performance of duty, she sustained a back strain when a cabinet fell forward as she was placing a file inside.

On December 3, 2010 OWCP denied appellant's claim, finding that, while she had established that an incident occurred on October 25, 2010 as alleged, she had not established that appellant sustained an injury in connection with the accepted incident.

Appellant requested reconsideration on March 21, 2011 and by decision dated June 15, 2011, OWCP modified its prior decision to find that appellant had established that she sustained an injury as alleged. The claim, however, remained denied, as she had not established that the injury was causally related to the accepted October 15, 2010 employment incident.

Appellant again requested reconsideration and by decisions dated July 20 and August 24, 2012, OWCP denied modification of its prior decision. She subsequently appealed to the Board.

By decision dated March 22, 2013, the Board affirmed OWCP's July 20 and August 24, 2012 decisions, finding that appellant failed to establish that her back, leg, neck, and hand injuries were causally related to the accepted October 25, 2010 employment incident.⁴

On August 12, 2013 appellant, through counsel, requested reconsideration, contending that the medical evidence of record established her claim. Counsel stated that she was submitting a new supplemental medical report from Dr. Shannon Ceasar, a family practitioner, which provided additional information and cured the deficiencies of her prior report.

In an undated narrative report, Dr. Ceasar related that she evaluated appellant on March 27, 2012 for injuries stemming from an October 25, 2010 work-related incident. She diagnosed displacement of intervertebral disc without myelopathy, degeneration of lumbar or lumbosacral intervertebral disc, cervicgia, cervicobrachial syndrome, lumbago, spasm of muscle, cervical segmental dysfunction and lumbar segmental dysfunction. Dr. Ceasar noted that, although appellant's current symptoms existed prior to the October 25, 2010 employment incident, those symptoms were noticeably exacerbated and aggravated by the incident. She further concluded that appellant's previous conditions did not contribute to her present condition. Dr. Ceasar opined with reasonable medical certainty that the resulting impact of the heavy cabinet caused an exacerbation and worsening of appellant's injuries and the continued heavy workload and lifting exacerbated the problem into the neck and hand.

³ Docket No. 13-0076 (issued March 22, 2013); Docket No. 14-0751 (issued October 20, 2014).

⁴ Docket No. 13-0076 (issued March 22, 2013).

By decision dated January 10, 2014, OWCP denied appellant's claim, finding that the medical evidence of record failed to establish that her diagnosed conditions were causally related to the October 25, 2010 employment incident.

On February 20, 2014 appellant again appealed to the Board. By decision dated October 20, 2014, the Board affirmed OWCP's January 10, 2014 decision, finding that she failed to establish that her back, leg, neck, and hand conditions were causally related to the accepted October 25, 2010 employment incident.⁵ The Board found that while Dr. Ceasar addressed appellant's preexisting back condition and opined that the October 25, 2010 employment incident caused a marked exacerbation, she failed to provide a rationalized opinion regarding the cause of appellant's diagnosed conditions. Dr. Ceasar provided eight different diagnoses, yet only generally stated that appellant's conditions were exacerbated by the October 25, 2010 incident. She failed to address each condition specifically with an opinion on how a falling file cabinet would cause each of the diagnoses provided. Dr. Ceasar generally stated that, following the October 25, 2010 employment incident, appellant's condition worsened due to the weakened area of the spine which was under a constant state of stress as a result of her work-related duties, causing the complicated conditions of the upper and mid back. This statement failed to provide a sufficient explanation as to the mechanism of injury pertaining to this traumatic injury claim, namely, how a falling cabinet would have caused or aggravated appellant's multiple claimed conditions. Without explaining how physiologically the movements involved in the employment incident caused or contributed to the diagnosed conditions, the Board finds that Dr. Ceasar's opinion that the impact of the heavy cabinet caused an exacerbation and worsening of appellant's injuries is equivocal in nature and of limited probative value.

On September 1, 2015 appellant, through counsel, requested reconsideration. Counsel noted submission of a new medical report from Dr. Ceasar which established causal relationship and addressed the deficiencies found in her previous reports.

In an August 27, 2015 medical report, Dr. Ceasar reported that she evaluated appellant on March 27, 2012 for injuries stemming from an October 25, 2010 work-related incident. She explained that appellant worked as a claims examiner for the employing establishment and her regular job duties entailed retrieving and placing large files in a filing cabinet. On October 25, 2010 appellant suffered a traumatic injury to the neck and lower back when she was placing a file in the file cabinet when the entire cabinet began to fall forward. This caused her to grab and hold the cabinet with her arms and hands, resulting in a traumatic injury to the neck and lower back. Dr. Ceasar explained that the file weighed in excess of 20 pounds, the file cabinet was four feet tall and weighed in excess of 250 pounds, and appellant was five feet two inches tall and weighed 140 pounds. She opined that, based on the presentation of injuries and the mechanism of injury, appellant suffered a traumatic injury to her neck and lower back when she tried to stop a filing cabinet from falling on top of her. Appellant noted that the file cabinet weighed in excess of 250 pounds, putting shearing force on appellant's cervical and lumbar spine due to exerting herself to keep the cabinet from falling on top of her. Dr. Ceasar diagnosed displacement of intervertebral disc without myelopathy, degeneration of lumbar or lumbosacral intervertebral disc, brachial neuritis or radiculitis, cervicgia, cervicobrachial syndrome, lumbago, spasm of muscle, cervical segmental dysfunction, and lumbar segmental dysfunction.

⁵ Docket No. 14-0751 (issued October 20, 2014).

By letter dated February 10, 2016, counsel for appellant noted submission of a diagnostic report predating her October 25, 2010 employment injury as requested by OWCP.

In a June 11, 2009 diagnostic report, Dr. Harold Keyserling, a Board-certified radiologist, reported that a magnetic resonance imaging (MRI) scan of the lumbar spine revealed degenerative changes at L5-S1 mild bilateral facet arthrosis, L4-5 focal left foraminal disc protrusion causing mild left foraminal stenosis, and L3-4 mild bilateral facet arthrosis. He diagnosed focal left foraminal disc protrusion at L4-5 causing mild left foraminal stenosis and possible impingement of the exiting L4 nerve root.

By decision dated March 23, 2016, OWCP denied modification of its October 20, 2014 decision, finding that the evidence of record failed to establish that appellant's diagnosed conditions were causally related to the accepted October 25, 2010 employment incident.

On December 13, 2016 appellant, through counsel, requested reconsideration of OWCP's decision. In support of her claim, appellant submitted progress notes dated August 30, 2000 through January 28, 2016 documenting treatment for lower back conditions. She also resubmitted Dr. Ceasar's March 27, 2012 evaluation report and the August 27, 2015 supplemental report.

By decision dated February 2, 2017, OWCP denied modification of its March 23, 2016 decision, finding that the evidence of record failed to establish that appellant's diagnosed conditions were causally related to the accepted October 25, 2010 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁶ 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 are causally related to the employment injury.⁷ 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.⁸

In order to determine whether an employee actually sustained an 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 which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁹ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

⁶ *Supra* note 1.

⁷ *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

⁸ *Michael E. Smith*, 50 ECAB 313 (1999).

⁹ *Elaine Pendleton*, *supra* note 7.

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 supporting such causal relationship.¹⁰ 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. 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.¹¹

ANALYSIS

OWCP accepted that the October 25, 2010 employment incident occurred as alleged. The issue is whether appellant has established that the incident caused her multiple diagnosed conditions. The Board finds that she did not submit sufficient medical evidence to establish that her neck, back, leg, and hand conditions were causally related to the October 25, 2010 employment incident.¹²

Following the Board's last October 20, 2014 decision, appellant submitted an August 27, 2015 supplemental report from Dr. Ceasar. Counsel argued that this report, along with Dr. Ceasar's prior medical reports of record, provided an uncontroverted inference of causal relationship. The Board finds that the opinion of Dr. Ceasar is not well rationalized.¹³

In her August 27, 2015 report, Dr. Ceasar diagnosed displacement of intervertebral disc without myelopathy, degeneration of lumbar or lumbosacral intervertebral disc, brachial neuritis or radiculitis, cervicgia, cervicobrachial syndrome, lumbago, spasm of muscle, cervical segmental dysfunction, and lumbar segmental dysfunction. She opined that based on the mechanism and presentation of injuries, appellant suffered a traumatic injury to her neck and lower back when she tried to stop a filing cabinet from falling on top of her when she was placing a file in the cabinet. The Board notes that Dr. Ceasar's previously submitted medical reports failed to adequately describe the mechanism of injury pertaining to this traumatic injury claim.¹⁴ Dr. Ceasar's additional report fails to rectify the deficiencies, only generally stating that the 250 pound cabinet put shear force on appellant's cervical and lumbar spine when she exerted herself to keep the cabinet from falling on top of her. While she provided additional information surrounding the employment incident, specifically pertaining to the weight and height of appellant and the cabinet, these details did not satisfy the inadequacies of her prior reports. Dr. Ceasar noted eight different diagnoses, but failed to provide a sufficient explanation as to the

¹⁰ See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

¹¹ *James Mack*, 43 ECAB 321 (1991).

¹² See *Robert Broome*, 55 ECAB 339 (2004).

¹³ *R.M.*, Docket No. 11-1921 (issued April 10, 2012).

¹⁴ *D.H.*, Docket No. 14-1852 (issued January 27, 2015).

mechanism of injury pertaining to this traumatic injury claim, namely, how a 250-pound falling cabinet would cause or aggravate these multiple diagnosed conditions.¹⁵ Rather, Dr. Ceasar's supplemental report merely provided a more descriptive account of the October 25, 2010 employment incident as related to her by appellant. Such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how this physical activity actually caused the diagnosed conditions.¹⁶

Furthermore, Dr. Keyserling's June 11, 2009 diagnostic report established a focal left foraminal disc protrusion at L4-5 causing mild left foraminal stenosis and possible impingement of the exiting L4 nerve root. This MRI scan, coupled with the VA progress notes dating back to August 30, 2000, show treatment for a preexisting lumbar injury. The Board notes that where a person has a preexisting condition that is not disabling, but which becomes disabling because of aggravation causally related to the employment, then regardless of the degree of such aggravation, the resulting disability is compensable.¹⁷ However, Dr. Ceasar's August 27, 2015 medical report failed to discuss appellant's medical history and preexisting lumbar injuries as it related to the October 25, 2010 employment incident. Her previously submitted medical reports addressed appellant's preexisting lumbar injury by only generally stating that the October 25, 2010 employment incident caused a marked exacerbation. Dr. Ceasar did not address why appellant's complaints were not caused by her preexisting injury nor did she discuss whether her preexisting injury had progressed beyond what might be expected from the natural progression of that condition.¹⁸ A well-rationalized opinion is particularly warranted when there is a history of preexisting condition.¹⁹

The remaining medical evidence of record is also insufficient to establish appellant's claim. The VA progress notes dated August 30, 2000 through January 28, 2016 document treatment for a back injury with no opinion on causal relationship. 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.²⁰ As such, these reports are insufficient to meet appellant's burden of proof.²¹

An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.²² Appellant's honest belief that the October 25, 2010 employment incident caused her medical injury is not in question, but that belief, however

¹⁵ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹⁶ *K.W.*, Docket No. 10-0098 (issued September 10, 2010).

¹⁷ *P.B.*, Docket No. 13-1866 (issued March 7, 2014); *S.W.*, Docket No. 11-1678 (issued February 22, 2012); *Arnold Gustafson*, Docket No. 89-0438 (issued October 30, 1989).

¹⁸ *R.E.*, Docket No. 14-0868 (issued September 24, 2014).

¹⁹ *T.M.*, Docket No. 08-0975 (issued February 6, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

²⁰ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

²¹ *S.W.*, Docket 08-2538 (issued May 21, 2009).

²² *D.D.*, 57 ECAB 734 (2006).

sincerely held, does not constitute the medical evidence necessary to establish causal relationship.²³

In the instant case, the record lacks rationalized medical evidence establishing a causal relationship between the October 25, 2010 employment incident and appellant's claimed employment injuries. Thus, appellant has failed to meet her burden of proof.

Appellant may submit new evidence or argument, with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that her diagnosed conditions are causally related to the October 25, 2010 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the February 2, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 1, 2018
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

²³ See *J.S.*, Docket No. 17-0507 (issued August 11, 2017).