

ISSUE

The issue is whether appellant has met her burden of proof to establish that her claim should be expanded to include additional conditions causally related to her March 12, 2016 employment injury.

FACTUAL HISTORY

On March 12, 2016 appellant, then a 56-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that, on that date, she injured her back, right shoulder, and right knee when she fell on her back while trying to replace a hamper in the performance of duty. She stopped work on March 12, 2016. OWCP accepted the claim for right shoulder derangement and a right knee sprain.

Appellant received treatment on March 16, 2016 from Dr. John E. Jacoby, an internist and Board-certified pediatrician. Dr. Jacoby diagnosed multiple traumas after she fell trying to pull out a mail hamper. In a New York State Workers' Compensation Board report, dated March 16, 2016, he diagnosed back pain, knee derangement, and shoulder derangement.

Dr. Syed Rahman, a Board-certified internist, evaluated appellant on March 17, 2016 for neck pain following a new injury. He diagnosed spondylosis of the cervical region without myelopathy or radiculopathy, cervicgia, and chronic myofascial pain. Dr. Rahman indicated that the "recent fall injured her back [and] right shoulder."

In a March 23, 2016 progress report, Dr. Jacoby noted that appellant had a history of lumbar disc disease and knee derangement.³ He diagnosed right shoulder joint derangement, knee derangement, and back pain.

In a New York State Workers' Compensation Board form report dated April 6, 2016, Dr. Jacoby provided a history of appellant falling on her back and hitting her knee on a hamper replacing a piece of equipment. He diagnosed back pain, knee derangement, and shoulder derangement. Dr. Jacoby checked a box marked "yes" that the history and complaints were consistent with the history of illness and objective findings. He opined that appellant could not resume work due to pain in her neck, right shoulder, and right knee.

On April 13, 2016 Dr. Rahman treated appellant for back pain radiating into the bilateral buttocks and thighs. He noted that she described an injury to her middle back and knee when she fell at work on March 12, 2016. Dr. Rahman recounted appellant's history of orthopedic diagnoses as spinal stenosis of the thoracic region, acute myofascial pain, cervical and thoracic spondylosis without myelopathy or radiculopathy, cervicgia, other chronic pain, chronic

³ On April 5, 2016 Dr. Richard N. Weinstein, a Board-certified orthopedic surgeon, evaluated appellant for right knee pain. He obtained a history of her falling and hitting her knee moving equipment at work on March 12, 2016. Dr. Weinstein diagnosed right knee sprain "with acute exacerbation with prior history of the lateral meniscus tear." In an April 26, 2016 progress report, he diagnosed a "[r]ight knee sprain with acute exacerbation six weeks [status post] most recent workers' comp[ensation] injury with [a] past history of the lateral meniscus tear." Dr. Weinstein continued to submit progress reports regarding appellant's knee condition from May to August 2016.

myofascial pain. He diagnosed spinal stenosis of the thoracic region, spondylosis of the thoracic region without myelopathy or radiculopathy, and acute myofascial pain.

Dr. Jacoby, on April 22, 2016, opined that appellant sustained an injury to her back, right shoulder, and right knee due to a fall at work on March 12, 2016. He found that she could resume her regular work on May 17, 2016. Dr. Jacoby diagnosed cervical and lumbar spasms, right shoulder derangement, and right knee derangement.

Dr. Rahman, in an April 27, 2016 progress report, diagnosed thoracic spondylosis without myelopathy or radiculopathy and acute myofascial pain. In an accompanying form report, he referred her for physical therapy.

Appellant returned to work without restrictions on May 17, 2016.

By decision dated May 31, 2016, OWCP denied expansion of appellant's claim to include cervical and lumbar spasm, cervicgia, back pain, chronic myofascial pain, cervical spondylosis, spinal stenosis of the thoracic region, and thoracic spondylosis as causally related to her March 12, 2016 employment injury. It found that the medical evidence of record was insufficient to show that these claimed conditions resulted from the accepted work injury. OWCP further noted that pain and spasms were symptoms rather than diagnoses.

Dr. Rahman, on June 14, 2016, diagnosed thoracic spondylosis and stenosis, lumbosacral spondylosis, cervicgia, and chronic myofascial pain. He opined that the "impact of the recent injury taken place at work possibly [has] aggravated [appellant's] preexisting neck pain."

On June 28, 2016 appellant requested reconsideration.

On July 13, 2016 Dr. Rahman discussed appellant's complaints of pain and spasms in the right cervical spine radiating through the right arm. He noted that the symptoms occurred after a work injury. Dr. Rahman diagnosed cervical spondylosis without myelopathy or radiculopathy, cervicgia, and chronic myofascial pain and found that she was permanently partially disabled.

Dr. Rahman, on September 1, 2016, noted that appellant had a neck injury from a 2010 "work-related accident." He performed an injection at the area of the right neck. In a New York State Workers' Compensation Board form report dated September 1, 2016, Dr. Rahman provided the date of injury as March 12, 2016 and indicated that appellant had 50 percent temporary impairment.

By decision dated September 22, 2016, OWCP denied modification of its May 31, 2016 decision. It found that the medical evidence of record did not include a reasoned opinion relating additional conditions to appellant's March 12, 2016 work injury.

LEGAL PRECEDENT

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 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.⁶ 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.⁷

OWCP's procedures provide:

"In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration or precipitation, the physician must provide rationalized medical opinion which differentiates between the effects of the work-related injury or disease and the preexisting condition. Such evidence will permit the proper kind of acceptance (e.g., temporary vs. permanent aggravation)."⁸

ANALYSIS

OWCP accepted that appellant sustained right shoulder derangement and a right knee sprain due to a March 12, 2016 employment injury. The Board finds, however, that she has not submitted sufficient medical evidence to establish the additional claimed conditions of cervical and lumbar spasm, cervicalgia, back pain, chronic myofascial pain, cervical spondylosis, thoracic spinal stenosis, and thoracic spondylosis as causally related to her work injury.

Regarding the medical evidence relevant to claim expansion for the above-described conditions, Dr. Jacoby, on March 16, 2016, diagnosed multiple traumas and, more specifically, back pain, knee derangement, and shoulder derangement. On March 23 and April 6, 2016 he diagnosed right shoulder derangement, knee derangement, and back pain. As noted, OWCP accepted knee and shoulder derangement as causally related to the March 12, 2016 work injury. Regarding the diagnosis of back pain, the Board notes that a diagnosis of pain does not constitute the basis for the payment of compensation under FECA as pain is considered a symptom not a diagnosis.⁹

⁴ See *V.B.*, Docket No. 12-0599 (issued October 2, 2012); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁵ See *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

⁶ See *John W. Montoya*, 54 ECAB 306 (2003).

⁷ See *H.H.*, Docket No. 16-0897 (issued September 21, 2016); *James Mack*, 43 ECAB 321 (1991).

⁸ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(e) (January 2013).

⁹ See *G.C.*, Docket No. 15-1950 (issued June 13, 2016).

In a report dated April 22, 2016, Dr. Jacoby advised that appellant injured her right shoulder, right knee, and back at work on March 12, 2016 after a fall. He diagnosed cervical and lumbar spasms, right shoulder derangement, and right knee derangement. Dr. Jacoby, however, did not provide an explanation of how the March 12, 2016 fall caused cervical and lumbar muscle spasms. Medical evidence that states a conclusion, but 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.¹⁰

Appellant also provided reports from Dr. Rahman. On April 27, 2016 Dr. Rahman diagnosed thoracic spondylosis and acute myofascial pain. On June 14, 2016 he diagnosed thoracic spondylosis and stenosis, lumbosacral spondylosis, cervicalgia, and chronic myofascial pain. Dr. Rahman found that appellant's recent injury at work "might have aggravated her preexisting neck pain." His opinion that the work injury "might have aggravated" her preexisting cervical pain is couched in speculative terms and thus of diminished probative value.¹¹ Further, Dr. Rahman did not provide any rationale for his causation finding. A mere conclusion without the necessary rationale explaining how and why the physician believes that a claimant's accepted exposure could result in a diagnosed condition is not sufficient to meet a claimant's burden of proof.¹² Such rationale is particularly important given appellant's history of a preexisting cervical condition.¹³

Dr. Rahman, in a July 13, 2016 report, noted that appellant experienced symptoms of cervical pain and spasms radiating into her right arm after a work injury. He diagnosed cervical spondylosis without myelopathy or radiculopathy, cervicalgia, and chronic myofascial pain. While Dr. Rahman indicated that appellant's cervical spasms began after a work injury, the Board has held that the mere fact that a disease or condition manifests itself during a period of employment does not raise an inference of causal relationship between the condition and the employment.¹⁴ Without rationale, his opinion is of diminished probative value.¹⁵ Other reports from Dr. Rahman are of limited probative value as he did not specifically support that additional diagnosed conditions were causally related to the March 12, 2016 employment injury. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.¹⁶

¹⁰ See *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

¹¹ See *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

¹² See *Beverly A. Spencer*, 55 ECAB 501 (2004).

¹³ See *E.D.*, Docket No. 16-1854 (issued March 3, 2017); *S.R.*, Docket No. 16-0657 (issued July 13, 2016).

¹⁴ *D.E.*, 58 ECAB 448 (2007); *Roy L. Humphrey*, 57 ECAB 238 (2005).

¹⁵ See *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

¹⁶ *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *A.D.*, 58 ECAB 149 (2006).

As discussed, appellant has the burden of proof to establish her claim for additional conditions due to her March 12, 2016 work injury through the submission of rationalized medical opinion evidence. She has not provided evidence from a physician who, based on an accurate factual history, found that she had additional conditions due to her accepted work injury and supported this opinion with medical reasoning.¹⁷ Consequently, 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 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 conditions causally related to her March 12, 2016 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the September 22, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 13, 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

¹⁷ See *B.S.*, Docket No. 15-0002 (issued February 27, 2015).