

FACTUAL HISTORY

On November 3, 2015 appellant, then a 50-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that his cervical and lumbar radiculopathies were caused by repetitive work movements during his federal employment. He did not stop work.

On November 30, 2015 OWCP received appellant's statement dated September 15, 2015 detailing his employment history with the employing establishment. Appellant described in detail the employment factors he believed caused his conditions which included constant repetitive bending, twisting, and reaching.

By development letter dated January 15, 2016, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised appellant regarding the type of medical and factual evidence needed and afforded him 30 days to provide the requested information.

In response to OWCP's request, appellant's counsel submitted electromyography (EMG) studies dated June 4 and 15, 2015. Dr. Nidhi Modi, a Board-certified neurologist, reviewed both the June 4 and 15, 2015 EMG studies, which he related revealed abnormal findings. With respect to the June 4, 2015 study, he diagnosed acute bilateral C7-T1 cervical radiculopathies. In support of this conclusion, Dr. Modi noted active right C7 paraspinal muscle active denervation, unremarkable upper extremity motor and sensory nerve conduction studies, and bilateral upper extremity giant motor units recruitment of the opponens pollicis and FCI muscles. He explained that the June 15, 2015 test was remarkable for the absent bilateral H-waves in the lower extremity motor and sensory nerve conduction. Based on the findings from the studies, Dr. Modi diagnosed chronic L2-4, L4-5, and L5-S1 and chronic right L5-S1 lumbosacral radiculopathies. He recommended that clinical correlation be conducted.

By decision dated February 18, 2016, OWCP denied appellant's occupational disease claim. It explained that appellant failed to submit medical evidence sufficient to establish a medical diagnosis causally related to the accepted employment factors.

In a letter dated February 29, 2016, counsel requested an oral hearing before an OWCP hearing representative, which was held on May 26, 2016.

Counsel subsequently submitted an October 20, 2015 report from Dr. Nicholas P. Diamond, an osteopathic physician Board-certified in pain management. Dr. Diamond detailed appellant's employment history and employment factors. He provided results of diagnostic tests, as well as findings from appellant's physical examination. Appellant's diagnoses were related as repetitive and cumulative trauma disorder, chronic cervical and lumbar sprain/strain, occupational cervical spine syndrome, bilateral chronic C7-T1 active denervation, bilateral flexor digitorum indicis and opens pollicis giant motor recruitment, occupational low back syndrome, left L2-4, L4-5, and L5-S1 and bilateral L5-S1 radiculopathies. Dr. Diamond opined that appellant's employment caused his cervical and lumbar spine cumulative and repetitive trauma disorder.

Dr. Diamond, in a May 4, 2016 update of his October 20, 2015 report, reiterated prior findings and diagnoses.

In a May 17, 2016 report, Dr. Diamond referenced medical literature regarding the causes of repetitive strain injuries and back disorders and injuries noted in the Occupational Safety and Health Administration (OSHA) technical manual. He explained that the literature and OSHA manual referenced in his report establish that appellant's work duties directly caused appellant's diagnosed conditions.

In a May 31, 2016 report, Dr. Steven J. Valentino, an examining Board-certified orthopedic surgeon, detailed appellant's employment factors and listed examination findings. Diagnoses included low back pain, facet syndrome, and lumbar and cervical radiculopathies due to spinal degenerative joint disease. Dr. Valentino observed that appellant's letter carrier position required repetitive activities, which he concluded were the cause of appellant's diagnosed conditions.

By decision dated August 4, 2016, OWCP's hearing representative affirmed OWCP's February 18, 2016 decision. He found the record was devoid of any rationalized medical evidence explaining how the diagnosed conditions were caused or aggravated by the accepted factors of appellant's federal employment.

On October 21, 2016 counsel requested reconsideration and submitted a July 21, 2016 report from Dr. Valentino in support of his request. Dr. Valentino detailed the duties performed by appellant since being hired by the employing establishment on May 1, 2001. Findings from diagnostic tests and appellant's physical examination were noted. Based on physical examination findings and review of diagnostic tests, Dr. Valentino diagnosed cervical and lumbar degenerative disc disease aggravation with facet syndrome and cervical and lumbar radiculopathies. He attributed the diagnosed conditions to the accepted factors of his federal employment. Dr. Valentino explained that appellant's work activities created progressive and significant cervical and lumbar stress resulting in symptomatic lumbar and cervical degenerative disc disease with facet syndrome and lumbar and cervical radiculopathies.

By decision dated January 6, 2017, OWCP denied modification of its prior decision as it found that the report from Dr. Valentino was insufficiently rationalized.

In a letter received on March 15, 2017, counsel requested reconsideration and submitted a March 15, 2017 report by Dr. Valentino in support of his request. Dr. Valentino noted that appellant attributed his condition to repetitive bending and twisting, walking, and other mail-related duties. He reiterated his physical examination findings and findings from diagnostic tests, and explained that appellant experienced repetitive trauma from his work. Moreover, Dr. Valentino observed appellant had no symptoms prior to his claimed work injury. He concluded that, based on the comparison of appellant's condition prior to the claimed work injury and subsequent thereto, aggravation was established.

By decision dated May 30, 2016, OWCP denied modification of its prior decision as it found that Dr. Valentino failed to provide a sufficiently rationalized opinion explaining how the diagnosed conditions were caused or aggravated by appellant's federal employment factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 and/or specific condition for which compensation is claimed are causally related to the employment injury.⁴ 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.⁵

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁷ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is causal relationship between the employee's diagnosed condition and the compensable employment factors.⁸ 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.⁹

ANALYSIS

Appellant attributed his cervical and lumbar radiculopathies to repetitive movements required by the accepted factors of his federal employment.

³ *Id.*

⁴ *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁵ *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *D.U.*, Docket No. 10-0144 (issued July 27, 2010); *R.H.*, 59 ECAB 382 (2008); *Roy L. Humphrey*, 57 ECAB 238 (2005); *Donald W. Wenzel*, 56 ECAB 390 (2005).

⁷ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

⁸ *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

⁹ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

The Board finds that appellant failed to submit sufficient medical evidence to establish that his diagnosed conditions were causally related to accepted factors of his federal employment. Appellant, therefore, failed to meet his burden of proof.

In reports dated October 20, 2015, May 4 and 17, 2016, Dr. Diamond noted appellant's complaints of neck and back pain, which he attributed to appellant's repetitive work duties. He diagnosed repetitive and cumulative trauma disorder, chronic cervical and lumbar sprain/strain, occupational cervical spine syndrome, bilateral chronic C7-T1 active denervation, bilateral flexor digitorum indicis and opens pollicis giant motor recruitment, occupational low back syndrome, left L2-4, L4-5, and L5-S1 and bilateral L5-S1 radiculopathies. Dr. Diamond opined that the diagnosed conditions had been caused by appellant's repetitive work duties. He referenced medical literature on the causes of repetitive strain and back injuries. The Board has held that medical texts and excerpts from publications have no evidentiary value in establishing causal relationship between a claimed condition and an employee's federal employment as such materials are of general application and are not determinative of whether the specific condition claimed is related to the particular employment factors alleged by the employee.¹⁰

The Board notes that, while Dr. Diamond attributed the diagnosed conditions to appellant's federal employment factors, he merely offered a conclusion. No supporting medical rationale was given explaining his conclusory opinion regarding the relationship between the diagnosed conditions and the accepted federal employment factors.¹¹ Dr. Diamond did not explain how any specific employment factors physiologically caused any of the diagnosed conditions. Without explaining how physiologically the movements involved in appellant's employment factors caused or contributed to his diagnosed condition, Dr. Diamond's opinion on causal relationship is insufficiently rationalized and is of limited probative value.¹² Therefore, Dr. Diamond's reports are insufficient to meet appellant's burden of proof.

Similarly, Dr. Valentino's May 31 and July 21, 2016 and March 15, 2017 reports are also insufficient to establish appellant's claim. He detailed appellant's accepted federal employment factors and diagnosed cervical and lumbar degenerative disc disease, aggravation with facet syndrome, and cervical and lumbar radiculopathies. Dr. Valentino opined that these diagnoses were caused by appellant's repetitive work duties. His opinion on causal relationship is vague and generalized in nature. Dr. Valentino simply listed appellant's employment factors and concluded that they caused the diagnosed conditions. He did not indicate how often appellant performed each factor, correlate the factors to specific objective findings on physical examination and diagnostic testing, or describe the medical processes through which any factor could have been competent to cause or aggravate a specific diagnosed condition.¹³ The Board further notes that Dr. Valentino observed that since appellant had no symptoms previous to his

¹⁰ *J.F.*, Docket No. 17-0458 (issued October 21, 2017).

¹¹ See *T.M.*, Docket No. 08-0975 (issued February 6, 2009); *Beverly A. Spencer*, 55 ECAB 501 (2004) (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).

¹² *M.C.*, Docket No. 17-1579 (issued November 28, 2017).

¹³ See *R.G.*, Docket No. 17-1536 (issued December 5, 2017).

employment, his condition subsequently must be causally related, but the Board has held that an opinion that a condition is causally related to employment because the employee was asymptomatic prior, but symptomatic after it, is insufficient, without supporting rationale, to establish causal relationship.¹⁴ As Dr. Valentino provided no supporting rationale or explanation for his conclusions, his reports were also insufficient to meet appellant's burden of proof.

Appellant also submitted EMG tests dated June 4 and 15, 2015 from Dr. Modi diagnosing acute bilateral C7-T1 cervical radiculopathies. The Board has held that reports of diagnostic tests are of limited probative value as they fail to provide an opinion on the causal relationship between appellant's accepted employment factors and the diagnosed condition. For this reason, this evidence is insufficient to meet his burden of proof.¹⁵

Consequently, the Board finds that appellant has not submitted sufficient medical evidence to establish that his accepted federal employment factors caused or aggravated a diagnosed medical condition. Thus, he has failed to meet his 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 his burden of proof to establish cervical and lumbar conditions causally related to factors of his federal employment.

¹⁴ See *J.G.*, Docket No. 17-0709 (issued July 21, 2017).

¹⁵ See *D.S.*, Docket No. 17-1657 (issued January 4, 2018).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 30, 2017 is affirmed.

Issued: March 1, 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