

**United States Department of Labor  
Employees' Compensation Appeals Board**

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G.M., Appellant )  
and ) Docket No. 19-0539  
U.S. POSTAL SERVICE, POST OFFICE, ) Issued: August 6, 2019  
Marlborough, MA, Employer )  
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)

*Appearances:*  
Appellant, *pro se*  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge

**JURISDICTION**

On January 11, 2019 appellant filed a timely appeal from an August 1, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met his burden of proof to establish a lumbar condition causally related to the accepted factors of his federal employment.

**FACTUAL HISTORY**

On April 26, 2018 appellant, then a 58-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he developed spinal stenosis, spondylolisthesis, lumbar facet arthropathy, and disc herniation due to factors of his federal employment. He noted that he first

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

became aware of his condition on August 12, 2017 and first realized that it was employment related on April 23, 2018. On the reverse-side of the claim form, the employing establishment noted that appellant first sought medical treatment on April 23, 2018, first reported the injury on May 1, 2018, and that he continued to work.

In an April 23, 2018 report, Robin Greb, a nurse practitioner, noted that she originally consulted with appellant on June 21, 2017 at which time he complained of pain of two month's duration. Appellant reported experiencing radicular symptoms in his right leg. Ms. Greb also noted that he was a letter carrier. At the time, appellant received conservative treatment including pain relievers, muscle relaxants, and physical therapy. Ms. Greb also noted that, during an August 2, 2017 follow-up examination, he reported no improvement in his symptoms following physical therapy. She indicated that she obtained a lumbar magnetic resonance imaging (MRI) scan that revealed severe spinal canal stenosis at L3-4 and L4-5, spondylolisthesis, lumbar facet arthropathy, and an L5-S1 disc herniation with compression of the bilateral L5 nerve roots. Ms. Greb prescribed pain medication and referred appellant to an orthopedist, who in turn recommended epidural steroid injections and a surgery consultation. She indicated that appellant opted to pursue pain management therapy rather than surgery. Appellant's treatment included epidural steroid injections, bilateral facet blocks, and he was currently scheduled for bilateral radiofrequency ablation of the medial branches, beginning with the right side. Ms. Greb also indicated that she reviewed his job description and noted that he continued to work with restrictions. She opined that all of the findings on the MRI scan were consistent with chronic heavy lifting and overuse. Because appellant had been carrying a mail satchel weighing 35 pounds and unloading mail containers weighing up to 70 pounds on a regular basis, Ms. Greb further opined that there was "a strong correlation between [appellant's] present job requirements and the damage he ... sustained to his back, which ... is seen with chronic overuse." She concluded her letter by indicating that his back issues "are concurrent with occupational disease due to chronic heavy lifting required for [appellant] to perform his job...."

In a May 22, 2018 development letter, OWCP notified appellant of the type of additional evidence needed to establish his occupational disease claim, including factual evidence documenting any hazardous exposures at work and a statement from his attending physician explaining the causal relationship between those exposures and the claimed conditions. It explained that a physician assistant or nurse practitioner did not qualify as a physician under FECA. OWCP afforded appellant 30 days to submit the requested evidence.

In a June 15, 2018 statement, appellant indicated that carrying a mailbag caused his problems and that he had carried a mailbag every day for six to seven hours per day over a period of 19 years. He also noted that he used to bicycle before his back issues arose.

A July 31, 2017 lumbar MRI scan noted a history of acute low back pain and bilateral feet numbness. The MRI scan revealed severe spinal canal stenosis at L3-4 and L4-5, spondylolisthesis, lumbar facet arthropathy, and a disc herniation at L5-S1 with compression of the bilateral L5 nerve roots, as well as moderate to high-grade spinal canal stenosis at L2-3.

On June 14, 2018 Dr. Andrew Siber, a Board-certified internist, wrote a letter indicating his agreement with the facts and statements contained in Ms. Greb's April 23, 2018 letter. He also provided a counter-signed copy of her letter.

By decision dated August 1, 2018, OWCP denied appellant's claim, finding that he had not met his burden of proof to establish that his claimed lumbar condition was causally related to the accepted factors of his federal employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> 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 timely filed within the applicable time limitation of FECA,<sup>3</sup> that an injury 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.<sup>4</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

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

Causal relationship is a medical question that requires rationalized-medical opinion evidence to resolve the issue.<sup>7</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.<sup>8</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition, and appellant's specific employment factor(s).<sup>9</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *G.D.*, Docket No. 19-0265 (issued May 20, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *D.F.*, Docket No. 19-0067 (issued May 3, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>7</sup> *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>8</sup> *M.S.*, Docket No. 19-0189 (issued May 14, 2019); *Victor J. Woodhams*, *supra* note 6.

<sup>9</sup> *Id.*

## **ANALYSIS**

The Board finds that appellant has not met his burden of proof to establish a lumbar condition causally related to the accepted factors of his federal employment.

While Dr. Siber expressed agreement with the narrative and opinions contained in Ms. Greb's April 23, 2018 report, the report failed to provide medical rationale to explain how the accepted letter carrier duties either caused or contributed to the various lumbar conditions noted on the July 31, 2017 MRI scan. Rather, Dr. Siber merely opined that the findings were "consistent with chronic heavy lifting and overuse." The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition was related to accepted employment factors.<sup>10</sup> Therefore, the April 23, 2018 report, as counter-signed by Dr. Siber, is insufficient to establish appellant's claim.

Appellant's July 31, 2017 MRI scan is also insufficient to establish causal relationship. The MRI scan revealed severe spinal canal stenosis at L3-4 and L4-5, spondylolisthesis, lumbar facet arthropathy, and a disc herniation at L5-S1 with compression of the bilateral L5 nerve roots, as well as moderate-to-high-grade spinal canal stenosis at L2-3, but the radiologist who interpreted the MRI scan did not specifically address the cause of the reported findings. The Board has consistently held that diagnostic studies are of limited probative value as they do not address whether the employment factors caused or contributed to any of the diagnosed conditions.<sup>11</sup>

The Board thus finds that the medical evidence of record is insufficient to meet appellant's 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 a lumbar condition causally related to the accepted factors of his federal employment.

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<sup>10</sup> See Y.D., Docket No. 16-1896 (issued February 10, 2017).

<sup>11</sup> L.T., *supra* note 4.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 1, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 6, 2019  
Washington, DC

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

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board