

raise a roll-up door on a 53-foot trailer for inspection while in the performance of duty. He noted that he heard a snap and felt a sharp pain in the lower right side of his back when he attempted to raise the door.

On July 1, 2011 OWCP accepted appellant's claim for sprain of the back, right lumbar region.²

OWCP received a letter dated January 14, 2019 from Dr. Jason S. Key, an attending Board-certified family practitioner, indicating that he evaluated appellant for low back pain and lumbar radiculopathy. Dr. Key related a history and noted that appellant had reported having problems since his May 20, 2011 employment-related injury. He advised that he reviewed medical records which revealed that appellant had bulging discs at L4-5 and L5-S1 at that time for which he received an epidural injection with some relief. Dr. Key related that a magnetic resonance imaging (MRI) scan performed in 2011 revealed bulging discs at L4-5 and L5-S1 with possible effects on the corresponding nerve roots. He noted that he denied having any other injury. Dr. Key advised that appellant's complaints were consistent with physical examination and imaging findings. He opined that his current symptoms were related to, and could be attributed to, his prior injury given similar findings on imaging and his history and physical examination.

On February 6, 2019 appellant requested that OWCP expand acceptance of his claim to include the additional condition of lumbar radiculopathy. He indicated that his request for claim expansion was based on Dr. Key's finding that his condition was related to his accepted 2011 employment-related injury.

In a development letter dated February 7, 2019, OWCP advised appellant of the type of evidence required to support that the acceptance of his claim should be expanded, including a rationalized medical report explaining how the diagnosed condition was caused, aggravated, or precipitated by his accepted employment injury. It afforded him 30 days to submit the necessary evidence.

Dr. Key, in two separate letters dated February 13, 2019, again noted his evaluation of appellant for low back pain and lumbar radiculopathy, and reiterated the history of his accepted May 20, 2011 employment injury and medical treatment. He noted that a July 31, 2013 lumbar spine MRI scan revealed bulging discs at L4-5 and L5-S1 causing mild neural foraminal stenosis (narrowing) and a 2018 lumbar spine MRI scan showed bulging discs at L4-5 and L5-S1 with possible effects on the corresponding nerve roots. Dr. Key advised that his interpretation of the most recent MRI scan demonstrated an apparent interval worsening of the previous findings. He indicated that appellant was ultimately diagnosed as having a low back sprain, but that documentation listed an additional diagnosis of lumbar radiculopathy. Dr. Key further indicated that in addition to his complaints of back pain, appellant reported complaints of pain radiating to his lower extremities and occasional numbness and tingling in his lower extremities. He reiterated that his complaints were consistent with physical examination and imaging findings. Dr. Key

² On July 7, 2014 appellant requested a schedule award (Form CA-7). OWCP, by decision dated November 17, 2014, denied his schedule award claim.

diagnosed low back pain and lumbar radiculopathy and opined that the diagnosed conditions resulted from appellant's accepted May 20, 2011 work-related injury.

On April 18, 2019 OWCP routed Dr. Key's reports, a statement of accepted facts (SOAF), and the case file, to Dr. Kenekwue Ugokwe, a Board-certified neurosurgeon serving as an OWCP district medical adviser (DMA), for review and to determine whether appellant had developed lumbar radiculopathy as a consequence of his accepted May 20, 2011 employment injury.

In a report dated April 22, 2019, Dr. Ugokwe indicated that he had reviewed the SOAF and medical record, including Dr. Key's reports. He disagreed with Dr. Key's opinion that appellant had developed lumbar radiculopathy as a consequence of his accepted work-related injury and that his claim should be expanded to include this condition. Dr. Ugokwe explained that Dr. Key's opinion was inconsistent with the medical findings in appellant's case. First, he noted that a September 16, 2014 electromyogram (EMG) had not shown evidence of radiculopathy. Secondly, Dr. Ugokwe further noted that a lumbar MRI scan did not show stenosis that was significant enough to cause radiculopathy.

By decision also dated April 22, 2019, OWCP denied appellant's request to expand the acceptance of his claim to include lumbar radiculopathy causally related to the May 20, 2011 employment injury. It found that Dr. Ugokwe's opinion constituted the weight of the evidence and established that he had not sustained an additional employment-related lumbar condition.

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.³

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁴ A physician's opinion on whether there is causal relationship between the diagnosed condition and an accepted injury must be based on a complete factual and medical background.⁵ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale which, explains the nature of the relationship between the diagnosed condition and the accepted employment injury.⁶

³ *M.B.*, Docket No. 19-0485 (issued August 22, 2019); *R.J.*, Docket No. 17-1365 (issued May 8, 2019); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁴ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁵ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁶ *Id.*

ANALYSIS

The Board finds that appellant has not met his burden of proof to expand the acceptance of his claim to include lumbar radiculopathy causally related to his accepted May 20, 2011 employment injury.

In support of his request for claim expansion, appellant submitted reports dated January 14 and February 13, 2019 from his physician, Dr. Key. In these reports, Dr. Key diagnosed low back pain and lumbar radiculopathy. He opined that the diagnosed conditions were causally related to the accepted May 20, 2011 employment injury based on similar findings on diagnostic imaging and appellant's history and physical examination. The Board finds that, while he concluded that the May 20, 2011 employment injury caused the diagnosed lumbar conditions, Dr. Key provided no medical rationale in support of his opinion. The Board has held that a mere conclusion without the necessary rationale as to whether a period of disability is due to an accepted employment condition is insufficient to meet a claimant's burden of proof.⁷ The Board therefore finds that his reports are insufficient for appellant to meet his burden of proof to establish that the accepted conditions in his claim should be expanded.

OWCP referred appellant to a DMA, Dr. Ugokwe, for an opinion regarding whether the acceptance of appellant's claim should be expanded to include lumbar radiculopathy. In his April 22, 2019 report, Dr. Ugokwe found no additional employment-related lumbar condition. He disagreed with Dr. Key's opinion that appellant sustained lumbar radiculopathy as a consequence of the May 20, 2011 employment injury. Dr. Ugokwe explained that Dr. Key's opinion was inconsistent with the medical findings in the record as the September 16, 2014 EMG had not shown evidence of radiculopathy and a lumbar MRI scan had not shown stenosis that was significant enough to cause radiculopathy. Thus, his opinion was not supportive of the claimed expansion.

The Board finds that appellant has not submitted sufficient rationalized medical evidence to establish causal relationship between the accepted May 20, 2011 employment injury and the claimed additional condition of lumbar radiculopathy. As such, appellant has not met his burden of proof.⁸

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 expand the acceptance of his claim to include lumbar radiculopathy causally related to his accepted May 20, 2011 employment injury.

⁷ *A.T.*, Docket No. 19-0410 (issued August 13, 2019); *E.L.*, Docket No. 17-1632 (issued January 3, 2018).

⁸ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the April 22, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 16, 2019
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board