

ISSUE

The issue is whether appellant has met his burden of proof to expand the acceptance of his claim to include a back condition as causally related to the accepted August 15, 2022 employment injury.

FACTUAL HISTORY

On August 16, 2022 appellant, then a 41-year-old deportation officer, filed a traumatic injury claim (Form CA-1) alleging that on August 15, 2022 he injured his left leg when the ground collapsed beneath him as he was attempting to secure the perimeter of a suspect's home while in the performance of duty. He stopped work on that date. OWCP accepted the claim for left leg strain and left ankle sprain. It paid appellant wage-loss compensation on the supplemental rolls beginning September 30, 2022. Appellant returned to full-time modified-duty work on December 12, 2022 and full-duty work on January 12, 2023.

Beginning on December 5, 2022, Dr. Robert E. Urrea, an orthopedic surgeon, recounted appellant's complaints of intermittent and reproducible dull lumbar pain since the August 15, 2022 employment injury when he stepped into a hole with his left foot and fell forward twisting his left knee and foot. He noted that physical therapy had been effective in improving appellant's left leg radicular pain and range of motion. Dr. Urrea reviewed November 21, 2022 lumbar spine x-rays and found that they demonstrated decreased disc height at L4-5 with spondylolisthesis and facet gapping as well as decreased disc height at L5-S1 with vacuum phenomena and facet arthropathy. On physical examination, he found bilateral paravertebral muscular tenderness, but no atrophy of the lower extremity musculature. Dr. Urrea also reported producible pain with forward flexion, extension, bilateral rotation, and bilateral side bends. He noted that appellant had consistent lumbar pain radiating down appellant's left lower extremity and opined that a herniated disc could certainly have happened when his leg fell into the canal. Dr. Urrea recommended a lumbar magnetic resonance imaging (MRI) scan.

In a December 12, 2022 development letter, OWCP informed appellant that additional medical evidence was necessary to establish the additional claimed back conditions. It advised him that he should submit a medical opinion which provided a detailed history of injury and history of any preexisting condition, and a rationalized opinion regarding causal relationship between the August 15, 2022 traumatic event and his diagnosed conditions. OWCP afforded appellant 30 days to submit the necessary evidence.

Appellant provided a March 29, 2007 lumbar spine x-ray revealing normal disc space, unremarkable sacroiliac joints, and soft tissues.

In a November 7, 2022 report, Dr. Urrea described the August 15, 2022 employment incident and noted that appellant had pain radiating down his left lower extremity. He opined that a herniated disc could have certainly happened when appellant's leg fell into a crevice of the canal.

On December 23 and 24, 2022 Dr. Urrea completed narrative reports and again recounted appellant's lumbar pain since the August 15, 2022 employment injury. On physical examination he found atrophy of the lower extremity musculature and bilateral paravertebral muscular

tenderness. Dr. Urrea also noted pain with forward flexion, extension, rotation, and bilateral side bends. He explained that appellant's back symptoms became more noticeable as the accepted left leg conditions improved. Dr. Urrea found clear lumbar radiculopathy and that radiological findings establishing these arose following the August 15, 2022 employment injury. He again opined that a herniated disc could have certainly happened when appellant's left leg fell into the canal.

By decision dated January 13, 2023, OWCP denied expansion of the acceptance of appellant's claim to include the additional back conditions. It found that the medical evidence of record was insufficient to establish causal relationship to the accepted August 15, 2022 employment 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.³

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.⁴ 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.⁵ 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.⁶

ANALYSIS

The Board finds that appellant has not met his burden of proof to expand the acceptance of his claim to include back condition as causally related to the accepted August 15, 2022 employment injury.

In reports dated November 7 through December 24, 2022, Dr. Urrea explained that appellant had experienced back symptoms since August 15, 2022 and that these symptoms became more noticeable as the accepted left leg conditions improved. He found clear lumbar radiculopathy and radiological findings establishing that this condition arose following the August 15, 2022

³ See *C.L.*, Docket No. 21-0729 (issued December 1, 2022); *L.C.*, Docket No. 20-0866 (issued February 26, 2021); *T.F.*, Docket No. 17-0645 (issued August 15, 2018); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁴ See *C.L., id.*; *S.L.*, Docket No. 19-0603 (issued January 28, 2020); *S.A.*, Docket No. 18-0399 (issued October 16, 2018); *Kenneth R. Love*, 50 ECAB 276 (1999).

⁵ See *J.T.*, Docket No. 19-1723 (issued August 24, 2020); *P.M.*, Docket No. 18-0287 (issued October 11, 2018); *John W. Montoya*, 54 ECAB 306 (2003).

⁶ See *H.T.*, Docket No. 20-1238 (issued July 12, 2021); see also *H.H.*, Docket No. 16-0897 (issued September 21, 2016); *James Mack*, 43 ECAB 321 (1991).

employment injury. Dr. Urrea opined that a herniated disc could have happened when appellant's left leg fell into the canal. He did not, however, explain physiologically how the accepted employment injury resulted in a back condition. 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 is causally related to employment activities.⁷ Thus these reports are insufficient to meet appellant's burden of proof to establish expansion of the claim.

The remaining medical evidence of record consists of diagnostic studies. The Board has held that diagnostic studies, standing alone, lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.⁸

As the medical evidence of record is insufficient to establish a back condition as causally related to his accepted August 15, 2022 employment injury, the Board finds that appellant has not met 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 expand the acceptance of his claim to include back condition as causally related to the accepted August 15, 2022 employment injury.

⁷ *R.B.*, Docket No. 22-0713 (issued July 26, 2022); *A.P.*, Docket No. 20-1668 (issued March 2, 2022); *D.S.*, Docket No. 21-0673 (issued October 10, 2021).

⁸ *R.S.*, Docket No. 21-0803 (issued February 23, 2023); *V.L.*, Docket No. 20-0884 (issued February 12, 2021); *R.C.*, Docket No. 19-0376 (issued July 15, 2019).

ORDER

IT IS HEREBY ORDERED THAT the January 13, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 3, 2023
Washington, DC

Alec J. Koromilas, 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