

that his condition was due to his federal employment on January 10, 2001. On the reverse side of the claim form, a supervisor at the employing establishment noted that appellant did not show up to work at that location and that he had been out of work for “a good while.”

On January 31, 2001 a physician diagnosed back pain. In a form report dated October 30, 2002, Dr. Ahmad Jingo, a Board-certified internist, diagnosed lumbar disc disease and found that appellant was totally disabled from October 25 to November 10, 2002. In a progress report dated June 10, 2003, a physician noted that appellant had a history of low back pain from a work injury. The physician diagnosed left shoulder and back pain. On June 11, 2003 a physician diagnosed left shoulder pain, back pain and depression.¹

On July 7, 2006 the employing establishment notified the Office that appellant began work on February 10, 2001 and was last in a work status on April 23, 2004. The employing establishment argued that he had not established that he was exposed to the alleged employment factors and had not submitted sufficient medical evidence in support of his claim.

By letter dated July 18, 2006, the Office requested that appellant provide an explanation for his delay in filing a claim and a comprehensive medical report from his attending physician addressing the causal relationship of any diagnosed condition.² Appellant submitted progress reports dated June 12, 2002 through April 4, 2004 describing his treatment for back, neck and shoulder pain. In a letter dated January 17, 2003, Dr. Jingo opined that appellant was unable to work due to back problems beginning October 27, 2002. He found that appellant could resume his usual employment on January 17, 2003.

Appellant submitted progress reports dated 2004 and 2005 from the Veterans Administration (VA) medical center describing his treatment for back pain. He received treatment in the hospital from August 22 to September 15, 2005 for chronic low back and left shoulder pain.³ In a progress report dated March 1, 2006, Dr. Marwan I. Zheiman, a neurologist, diagnosed “[c]hronic low back pain with evidence of radiculopathy to the L4 and L5 areas on the right side.”⁴ On July 25, 2006 Dr. Susan S. Platt, a Board-certified internist, diagnosed chronic back pain with a history of osteoarthritis, a bulging disc and radiculopathy.

In a statement dated August 17, 2006, appellant listed supervisor and coworkers who were aware of his disability.

¹ The names of the physicians are not legible.

² On August 3, 2006 the Office noted that the Board had affirmed the termination of appellant’s compensation for refusing suitable work under 5 U.S.C. § 8106 in file number 062109391.

³ A computerized tomography scan dated August 31, 2005 showed degenerative changes at L2-3. A lumbar magnetic resonance imaging scan study dated September 7, 2005 showed a disc bulge at L3-4 with compression of the neural foramina and an annular tear at L4-5 without evidence of disc extrusion.

⁴ In letters to the employing establishment dated 2004, appellant described the circumstances of other employment injuries.

By decision dated October 2, 2006, the Office denied appellant's claim on the grounds that the evidence was insufficient to establish that he sustained an injury due to the established employment factors.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act⁵ has the burden of establishing 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 the Act, 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.⁶ 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.⁷

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed;⁸ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁹ and (3) medical evidence establishing the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.¹⁰

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.¹¹ The opinion of the physician must be based on a complete factual and medical background of the claimant,¹² must be one of reasonable medical certainty¹³ explaining the nature of the

⁵ 5 U.S.C. §§ 8101-8193.

⁶ *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ See *Irene St. John*, 50 EAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 2.

⁸ *Solomon Polen*, 51 ECAB 341 (2000).

⁹ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

¹⁰ *Ernest St. Pierre*, 51 ECAB 623 (2000).

¹¹ *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

¹² *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

¹³ *John W. Montoya*, 54 ECAB 306 (2003).

relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁴

ANALYSIS

Appellant attributed his tendinitis, low back pain, lumbar disc disease, reduced range of motion in his back, a lumbar disc bulge, degenerative disc disease, facet arthropathy, an annular tear and arthritis to performing repetitive work for eight hours per day. The employing establishment challenged whether he was exposed to the alleged employment factors and noted that he had not reported for work in his new work location. Appellant last worked on or about April 23, 2004. He did not submit a statement describing the exact factors of employment to which he attributed his condition.¹⁵ It is appellant's burden to submit a detailed description of the employment factors or conditions that he believes caused or adversely affected the condition or conditions for which compensation is claimed.¹⁶ The Board thus finds that he has not established the alleged employment factors of working eight hours per day, six days per week, performing repetitive tasks.

Additionally, the record is devoid of medical evidence containing an opinion on causal relationship. On October 30, 2002 Dr. Jingo diagnosed lumbar disc disease and indicated that appellant was totally disabled from October 25 to November 10, 2002. He did not, however, address causation. The Board has held that 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.¹⁷

The record contains progress notes dated 2003 from various physicians who treated appellant for low back pain and left shoulder pain. The names of the physicians, however, are not legible. As the progress reports lack proper identification, they do not constitute probative medical evidence.¹⁸

Appellant received treatment from VA from 2004 to 2005 for chronic low back and left shoulder pain. On March 1, 2006 Dr. Zheiman diagnosed chronic low back pain with radiculopathy. On July 25, 2006 Dr. Platt diagnosed chronic back pain with a history of osteoarthritis, a bulging disc and radiculopathy. None of the reports, however, addressed the cause of appellant's back pain and thus are of diminished probative value on the issue of causal relationship.¹⁹

¹⁴ *Judy C. Rogers*, 54 ECAB 693 (2003).

¹⁵ The Board notes that the Office did not require further information from appellant regarding his work activities in its July 18, 2006 development letter.

¹⁶ *Penelope C. Owens*, 54 ECAB 684 (2003).

¹⁷ See *Conrad Hightower*, *supra* note 11.

¹⁸ See *Ricky S. Storms*, 52 ECAB 349 (2001); *Merton J. Sills*, 39 ECAB 572 (1988).

¹⁹ *Jaja K. Asaramo*, 55 ECAB 200 (2004).

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between his claimed condition and his employment.²⁰ Appellant must submit a physician's report in which the physician reviews the employment factors he identified as causing his condition and, taking these factors into consideration as well as findings upon examination, state whether the employment injury caused or aggravated the diagnosed conditions and provide medical rationale in support of his or her opinion.²¹ He failed to submit such evidence in this case and, therefore, has failed to discharge his burden of proof to establish that he sustained an employment-related recurrence of disability.

CONCLUSION

The Board finds that appellant has not established that he sustained an occupational disease causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 2, 2006 is affirmed.

Issued: March 27, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

²⁰ *Robert A. Boyle*, 54 ECAB 381 (2003); *Patricia J. Glenn*, 53 ECAB 159 (2001).

²¹ *Calvin E. King*, 51 ECAB 394 (2000).