

Appellant submitted a March 16, 1995 letter from the Department of Veterans Affairs granting him service-connected disability compensation for degenerative joint disease in his hips, lumbar spine, each of which were assigned a 20 percent disability rating for a combined rating of 60 percent.

Appellant submitted an April 13, 2006 report in which Dr. Gary L. Rose, a Board-certified diagnostic radiologist, reported that radiological examination of appellant's knee and spine revealed degenerative changes of the medial tibial plateau and the left patella.

Appellant submitted an April 14, 2008 note in which Dr. Larren Wade, a Board-certified internist, referred appellant to an orthopedic surgeon.

Appellant submitted a May 5, 2008 report in which Dr. Clay Wellborn, an orthopedic surgeon, opined that appellant was disabled from all work due to "severe back pain and radiculopathy in the lower left extremities."

In a May 12, 2008 note, Dr. Wellborn released appellant from work.

On May 15, 2008 Dr. Sheila Jahan, a neurologist, presented findings on examination, reviewed appellant's history of injury and diagnosed low back pain. On May 20, 2008 she reported that nerve conduction studies revealed peripheral neuropathy, bilateral C6-7 radiculopathy, and bilateral L5-S1 lumbar radiculopathy. In a May 29, 2008 report, Dr. Jahan relates that appellant stated he was declared 60 percent disabled by the "Veterans Administration." She concludes that such a disability rating is appropriate because "clearly he has got [*sic*] weakness." Dr. Jahan diagnosed peripheral neuropathy as well as lumbar and cervical radiculopathy.

In a September 18, 2008 report, Dr. Wellborn presented findings on examination, reviewed appellant's history of injury and diagnosed spondylolisthesis, lumbar degenerative joint disease and lumbar spinal stenosis.

On October 23, 2008 Dr. Jahan opined that most of appellant's symptoms were aggravated by "the kind of work he has carried for years and years [*sic*]." Furthermore, she opines that "most of [appellant's] symptoms of injuries [*sic*] to his back have been as a result of carrying heavy objects and walking, climbing, pushing and pulling."

In a supplemental statement, dated October 31, 2008, appellant asserts that his federal employment "contributed" to his condition. He identified his employment duties, which included standing while preparing mail for his delivery route, loading mail and the walking he engages in while delivering mail. Appellant relates that prolonged sitting and standing exacerbates his condition.

By decision dated December 8, 2008, the Office denied the claim, finding that, while appellant established the employment factors he deemed responsible for his condition, the evidence of record did not demonstrate the established employment factors caused a medically diagnosed injury.

On December 17, 2008 appellant, through his attorney, requested an oral hearing. At the hearing appellant testified regarding history of injury.

Following a March 16, 2009 hearing, by decision dated June 8, 2009, the Office affirmed its December 8, 2008 decision because the evidence of record did not demonstrate the identified employment factors caused a medically diagnosed injury.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of his claim by the weight of the evidence,² including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.³ As part of his burden, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background showing causal relationship.⁴ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.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. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. 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.⁷

¹ 5 U.S.C. §§ 8101-8193.

² *J.P.*, 59 ECAB ___ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

³ *G.T.*, 59 ECAB ___ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Id.* *Nancy G. O'Meara*, 12 ECAB 67, 71 (1960).

⁵ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

⁶ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁷ *I.J.*, 59 ECAB ___ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

On appeal, appellant's attorney disputes the Office's decisions, arguing that the Office failed to consider the arguments made at the oral hearing concerning appellant's preexisting back condition and the manner in which appellant's employment aggravated that condition. Appellant identified standing while preparing mail for his delivery route, loading mail and the walking he engages in while delivering mail as employment factors responsible for his condition. His burden is to demonstrate the identified employment factors caused a medically diagnosed injury. Causal relationship is a medical issue that can only be proven by probative rationalized medical opinion evidence. The Board finds appellant has not submitted sufficient probative rationalized medical opinion evidence and, consequently, has not established he sustained an injury in the performance of duty causally related to his employment.

The relevant medical opinion evidence of record consists of reports and notes from Drs. Jahan, Rose, Wade and Wellborn.

Dr. Jahan diagnosed low back pain, peripheral neuropathy, bilateral C6-7 radiculopathy, and bilateral L5-S1 lumbar radiculopathy. Her reports are of diminished probative value because they lack an opinion, supported by medical rationale, explaining how the identified employment factors caused the conditions he diagnosed.⁸ While Dr. Jahan opines that appellant's condition was caused by "the kind of work he performs," "carrying heavy objects," as well as "walking, climbing, pushing and pulling;" this is not a sufficiently rationalized medical opinion because she does not describe the frequency of the cited employment activities, nor the weight of the objects appellant lifts on a daily basis and most importantly she does not explain how or why these specific tasks caused the conditions she diagnosed. Absent such an explanation, her generalized comments merely repeat appellant's allegations.⁹

Dr. Rose diagnosed degenerative changes of the medial tibial plateau and the left patella. Dr. Wade referred appellant to an orthopedic surgeon. Dr. Wellborn diagnosed "severe back pain and radiculopathy in the lower left extremities" and opined that appellant was totally disabled from work. These opinions were not based on a complete and accurate history, nor do they provide a rationalized medical opinion explaining causal relationship between the diagnosis and appellant's employment duties. These opinions are of diminished probative value and are not sufficient to meet appellant's burden of proof to establish causal relationship. The weight of a medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.¹⁰ Thus, the Board finds Drs. Rose, Wade and Wellborn's reports and notes are insufficient to establish a causal relationship between appellant's condition and the identified employment factors.

⁸ See *Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value).

⁹ *Edgar G. Maiscott*, 4 ECAB 558 (1952) (holding appellant's subjective symptoms and self-serving declarations do not, in the opinion of the Board, constitute evidence of a sufficiently substantial nature).

¹⁰ See *Anna C. Leanza*, 48 ECAB 115 (1996).

Moreover, the findings of other federal agencies or bodies are not dispositive with regard to questions arising under the Act.¹¹ Dr. Jahan approves of the 60 percent disability rating appellant received from the Department of Veterans Affairs because “clearly he has got [*sic*] weakness,” but she provides no opinion or explanation concerning the causal relationship, if any, between this 60 percent disability rating and how the identified employment factors may have aggravated his service-connected condition such that this 60 percent disability rating is relevant to his present claim.

CONCLUSION

The Board finds appellant has not established that he sustained an injury in the performance of duty causally related to his employment.

ORDER

IT IS HEREBY ORDERED THAT the June 8, 2009 decision of the Office of Workers’ Compensation Programs is affirmed.

Issued: June 2, 2010
Washington, DC

Alec J. Koromilas, Chief Judge
Employees’ Compensation Appeals Board

David S. Gerson, Judge
Employees’ Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees’ Compensation Appeals Board

¹¹ *Donney T. Drennon-Gala*, 56 ECAB 469, 478 (2005).