



## **FACTUAL HISTORY**

On April 14, 2012 appellant, then a 48-year-old mail handler, filed an occupational disease claim, alleging that she developed a herniated disc and a pinched nerve due to her work duties such as heavy lifting, twisting and bending.

Along with her claim, appellant also submitted several progress reports dated March 9, September 28 and November 16, 2011 from Dr. Chadwick A. Furness, a Board-certified family physician, who related appellant's history of low back pain and discussed possible surgery.

Appellant also submitted a March 29, 2012 report from Dr. Furness who noted that he had diagnosed appellant with lumbar disc herniation and that appellant has been seen by Dr. Steven Klafeta, a Board-certified neurosurgeon, who is planning to do surgery on April 9, 2012. Dr. Klafeta related that appellant had been off work since March 2, 2012 and would continue to be off work through the date of surgery.

A January 25, 2012 magnetic resonance imaging (MRI) scan report from Dr. Saima Ghorri, a Board-certified specialist in diagnostic radiology, noted appellant's "diffuse disc bulge at L4-5 appears to be abutting the traversing L5 nerve roots bilaterally and exiting right L4 nerve root." Also noted were mild multilevel degenerative disc disease and facet arthrosis.

In his March 27, 2012 letter, Dr. Klafeta noted that the MRI scan which showed L4-5 herniated disc with impingement of the L5 nerve root and discussed his plans for appellant's surgery.

On May 9, 2012 OWCP advised appellant that additional evidence was necessary to establish his claim. Appellant was advised that he was required to submit a medical report, with supporting rationale, explaining how his condition was causally related to his work duties. On May 29, 2012 OWCP received a May 9, 2012 report from a physician's assistant who recommended an MRI scan evaluation.

In a May 22, 2012 progress note, Dr. Klafeta related that appellant had been having back issues for some time. He noted a worsening of appellant's lower back conditions and diagnosed her with herniated disc at L4-5 with impingement of the L5 nerve root. Dr. Klafeta concluded that appellant would be able to return to work six to eight weeks following surgery.

Appellant also submitted a June 6, 2012 report from Dr. Eric Kozfkay, a Board-certified physician in physical medicine and rehabilitation, who diagnosed appellant with L4-5 lumbar disc herniation, bilateral lumbar radiculitis and lumbar spinal stenosis.

In a June 19, 2012 decision, OWCP denied appellant's claim on the grounds that the medical evidence did not demonstrate that her claimed conditions were causally related to her work factors.

On July 27, 2012 appellant requested reconsideration of her case. Along with her request, she resubmitted medical reports of record. Also submitted was July 20, 2012 progress note from Dr. Klafeta, who noted appellant's lumbar disc herniation and stated that the "injury most likely resulted due to her work."

In a decision dated October 5, 2012, OWCP again denied appellant's claim, after merit review, on the grounds that she had failed to establish that her diagnosed conditions are causally related to her work factors.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of establishing that 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 period of FECA, that an injury was sustained 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.<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 the following: (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 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. The medical evidence required to establish causal relationship is usually rationalized medical 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. 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.<sup>6</sup>

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her claimed conditions and her federal employment. This burden includes providing medical evidence from a physician who concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>7</sup>

---

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>6</sup> *Id.*

<sup>7</sup> *See Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

## ANALYSIS

In the instant case, appellant has failed to submit a medical report containing a rationalized, probative opinion which relates her claimed lumbar disc herniation to factors of her employment. For this reason, she has not discharged her burden of proof to establish her claim.

While several doctors diagnosed appellant with lumbar disc herniation in their reports, they did not discuss whether the condition was causally related to her federal work activities. In this regard, the Board notes that Dr. Furness, Dr. Klafeta and Dr. Kozfkay diagnosed lumbar disc herniation, while Dr. Ghorri diagnosed diffuse disc bulge, multilevel degenerative disc disease and facet arthrosis. The Board has long held that medical conclusions unsupported by rationale are of diminished probative value and insufficient to establish causal relationship.<sup>8</sup> As such, these reports are of little probative value.

In his July 20, 2012 report, Dr. Klafeta noted that appellant has had severe back pain and right leg pain due to a disc herniation in her lower back and asserted that the injury most likely resulted due to her work. His opinion, however, is of limited probative value. The weight of 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.<sup>9</sup> Dr. Klafeta did not sufficiently describe appellant's job duties or explain the medical process through which such duties would have been competent to cause the claimed conditions. His report did not contain any medical rationale explaining how appellant's diagnosed condition was related to factors of employment.<sup>10</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor is the belief that her condition was caused, precipitated or aggravated by her employment sufficient to establish causal relationship.<sup>11</sup> Causal relationship must be established by rationalized medical opinion evidence and she failed to submit such evidence.

OWCP advised appellant of the evidence required to establish her claim; however, she failed to submit such evidence. Consequently, appellant has not met her burden of proof in establishing that her claimed conditions were causally related to her employment.

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.

---

<sup>8</sup> See *Albert C. Brown*, 52 ECAB 152 (2000).

<sup>9</sup> See *Anna C. Leanza*, 48 ECAB 115 (1996).

<sup>10</sup> *William C. Thomas*, 45 ECAB 591 (1994).

<sup>11</sup> See 5 U.S.C. § 8101(2).

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish that her diagnosed back condition was sustained in the performance of her federal job duties.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 5, 2012 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: May 28, 2013  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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