

FACTUAL HISTORY

On July 15, 2005 appellant, a 41-year-old mail handler, filed an occupational disease claim alleging that his arthritis condition was aggravated by his employment.¹ On June 20, 2004 he first became aware of his back arthritis, but did not realize it was aggravated by his employment until June 20, 2005. Accompanying appellant's claim was an undated report by Dr. Subodh K. Choudhary, a podiatrist, diagnosing bilateral foot arthritis.

In a letter dated August 10, 2005, the Office informed appellant that the evidence of record was insufficient to establish his claim and requested additional factual and medical information.

On August 15, 2005 the Office received treatment notes for the period June 14, 2004 through July 25, 2003 from Dr. Choudhary; a March 27, 2004 x-ray interpretation of both feet; a July 1, 2003 magnetic resonance imaging (MRI) scan of the lumbar spine; March 29, 2004 x-ray interpretation of the lumbosacral spine; May 20, 2004 and March 1, 2005 rating decisions by the Department of Veterans Affairs; an August 10, 2005 statement by appellant's supervisor; and an August 11, 2005 letter from the employing establishment controverting appellant's claim.

A July 1, 2003 MRI scan revealed mild stenosis at the L5-S1 level and mild degenerative stenosis.

On September 2, 2005 appellant submitted additional evidence including treatment notes dated July 14, August 27 and November 25, 2003 and June 2 and November 24, 2004 and a February 11, 2004 report by Dr. Dana R. Ray; a July 17, 2003 x-ray interpretation of the wrist; a June 2, 2004 x-ray interpretation of the cervical spine; treatment notes for the period April 21 through 25, 2005 by Dr. Choudhary and an April 15, 2004 notice of proposed removal and a letter regarding the claims he filed.

Dr. Ray diagnosed low back pain and bilateral foot pain. She noted that appellant was being treated for a number of conditions including low back pain due to lumbar stenosis and bilateral foot pain. Appellant requested reassignment due to these conditions. In treatment notes dated June 2 and November 24, 2004, Dr. Ray diagnosed low back pain due to lumbar stenosis, bilateral hearing loss and bilateral bunion removal.

¹ The Board notes that appellant filed five claims on July 15, 2005 involving, his back, ankles, feet, elbow and wrist. He alleged that on May 20, 2004 he first became aware of his bilateral ankle arthritis condition. With regard to his bilateral foot arthritis condition, he noted that he was first aware of the condition on March 2, 2002. Appellant alleged that on June 20, 2005 he first realized that his bilateral ankle arthritis and bilateral foot arthritis was aggravated by his employment. Appellant indicated that he first realized he had left wrist and elbow tendinitis on March 18, 2005, but did not realize the condition was employment related until June 20, 2005. The employing establishment noted that appellant was placed on limited duty effective July 14, 2005 due to problems with his feet. On appeal appellant requested review of the hearing representative's decision affirming the denial that back arthritis was caused or aggravated by his employment duties. He made no mention of an adverse decision regarding his ankle, foot, wrist and elbow claims.

By decision dated October 12, 2005, the Office denied appellant's claim, finding that the medical evidence failed to establish a causal relationship between his medical conditions and his employment.

On October 27, 2005 appellant requested a telephone hearing before an Office hearing representative, which was held on March 13, 2006. The hearing representative noted that the issue was whether appellant's back arthritis was causally related to his federal employment duties. Appellant testified that he had low back pain prior to starting work with the employing establishment on September 6, 2003 and attributed his condition to heavy pushing, bending, stooping and lifting. The hearing representative asked appellant if there was anything they had not discussed which should be included. Appellant noted that he had filed a claim for another back injury with a date of injury of September 2005.

On April 12, 2006 the Office received undated progress notes and a February 11, 2004 report from Dr. Ray.

By decision dated May 2, 2006, the Office hearing representative affirmed the October 12, 2005 decision, finding that his back arthritis was not caused or aggravated by his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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 of the Act, 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.³

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, 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. The opinion of the

² 5 U.S.C. § 8101 *et seq.*

³ *D.D.*, 57 ECAB ___ (Docket No. 06-1315, issued September 14, 2006); *Gary J. Watling*, 52 ECAB 357 (2001).

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.⁴

ANALYSIS

Appellant identified bending and lifting as a mail handler as contributing to his back arthritis. The medical evidence from Dr. Ray included diagnoses of low back pain, lumbar stenosis, as well as radiculopathy and lumbar spondylosis. The record does not, however, contain a reasoned medical opinion on causal relationship between back arthritis and the identified employment factors. Dr. Ray's reports indicated that appellant received treatment for a lumbar condition, but he did not discuss the identified employment factors or offer an opinion on causal relationship with a diagnosed condition.

Similarly, the treatment notes of Dr. Choudhary were also devoid of a rationalized statement, based on a complete history, addressing causal relationship. Thus, they too were insufficient to establish appellant's claim for back arthritis.

It is appellant's burden of proof to submit probative medical evidence on the issue of causal relationship. Appellant did not submit medical evidence with a reasoned medical opinion, based on a complete background, on the issue of causal relationship with employment. For this reason, the Board finds that he did not meet his burden of proof in this case.

CONCLUSION

The Board finds that appellant did not submit sufficient medical evidence on the issue of causal relationship and, therefore, he did not meet his burden of proof to establish that his back arthritis is causally related to his federal employment.

⁴ *Solomon Polen*, 51 ECAB 341 (2000).

ORDER

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

Issued: November 8, 2006
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