



employment duties of standing, twisting and carrying mail.<sup>1</sup> Appellant did not stop work, but was assigned to casing mail with no street delivery.

In support of his claim, appellant submitted a March 3, 2006 statement; an October 10, 2002 report by Dr. Peter Mulhern, a treating Board-certified orthopedic surgeon; duty status reports (Form CA-17) dated February 9 and 24, 2006 and a February 24, 2006 attending physician's report (Form CA-20), by Dr. Parmender S. Bagga, a treating Board-certified internist; chart notes; and factual evidence. Dr. Mulhern reported normal hip range of motion and diagnosed left hip mild degenerative arthritis. An x-ray interpretation revealed that appellant had "some early changes of degenerative arthritis." Dr. Mulhern then recommended that he "begin to think about getting away from a walking mail route as I think that this is probably aggravating his symptoms."

Dr. Bagga diagnosed moderate left hip osteoarthritis and checked "yes" to the question of whether the condition was caused or aggravated by appellant's employment. He noted under the history section that appellant related the onset of his condition as January 15, 2002 and also related that the left hip pain was "due to job as letter carrier and repeatedly entering mail truck and carrier duties." In a February 4, 2006 duty status report, Dr. Bagga diagnosed moderate left hip osteoarthritis due to entering and getting out of mail truck.

By letter dated March 22, 2006, the Office asked appellant to provide additional information, including a comprehensive medical report from an attending physician with the results of tests, diagnoses and a rationalized explanation of how the diagnosed condition was causally related to specific factors of his employment. The Office explained that the physician's opinion was crucial to his claim and allotted appellant 30 days within which to submit the requested information. No evidence was received under this claim number.

By decision dated April 28, 2006, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that his left hip degenerative osteoarthritis condition was caused or aggravated by his federal employment.<sup>2</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden to establish the essential elements of his claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the

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<sup>1</sup> This was assigned File No. 01-2034924. The record also contains a January 11, 2006 traumatic injury claim which was accepted for a left ankle sprain and assigned File No. 01-2036957.

<sup>2</sup> The Board notes that appellant submitted additional evidence on appeal and indicated that he had submitted this evidence to the Office prior to the issuance of the April 28, 2006 decision. However, the Board notes that as this evidence was not of record when the April 28, 2006 decision was issued it may not consider the evidence for the first time on appeal. See 20 C.F.R. §§ 501.2(c); *Donald R. Gervasi*, 57 ECAB \_\_\_\_ (Docket No. 05-1622, issued December 21, 2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003).

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

performance of duty as alleged and that any disability or condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup> Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.<sup>5</sup>

To establish a causal relationship between appellant's bilateral hearing loss and his employment, he must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's condition and the implicated employment factors.<sup>6</sup> 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>7</sup>

### ANALYSIS

Appellant claimed that his left hip osteoarthritis was aggravated by his employment factors as a carrier. The Office denied his claim on the grounds that appellant did not submit sufficient medical evidence to establish that he sustained a hip condition in the performance of duty. The Board finds that appellant did not submit sufficient medical evidence to establish that he sustained a hip condition in the performance of duty.

In a February 24, 2006 attending physician's report, Dr. Bagga indicated by checking a box "yes" that appellant's osteoarthritis was causally related his employment duties. However, when a physician's opinion supporting causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish a causal relationship.<sup>8</sup> Medical reports not containing a rationalized medical opinion on causal relationship are of diminished probative value.<sup>9</sup> Dr. Bragga did not provide medical reasoning to explain his support of causal relationship. He noted under history that the condition's onset was January 15, 2002 and left hip pain was "due to job as letter carrier and repeatedly entering mail truck and carrier duties." However, Dr. Bragga failed to provide any rationalized medical opinion explaining how appellant's work duties would cause or contribute to the diagnosed arthritis condition. Medical reports containing no medical rationale on causal relationship are

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<sup>4</sup> *Barbara R. Middleton*, 56 ECAB \_\_\_\_ (Docket No. 05-1026, issued July 22, 2005).

<sup>5</sup> *Donald W. Wenzel*, 56 ECAB \_\_ (Docket No. 05-146, issued March 17, 2005).

<sup>6</sup> *Kathryn E. Demarsh*, 56 ECAB \_\_\_\_ (Docket No. 05-269, issued August 18, 2005).

<sup>7</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Gloria J. McPherson*, 51 ECAB 441 (2000).

<sup>8</sup> *Sedi L. Graham*, 57 ECAB \_\_\_\_ (Docket No. 06-135, issued March 15, 2006); *Gary J. Watling*, *supra* note 7.

<sup>9</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

entitled to little probative value.<sup>10</sup> The Board finds the report of Dr. Bragga insufficient to establish the claim.

Appellant also submitted an October 10, 2002 report from Dr. Mulhern who diagnosed left hip mild degenerative arthritis. Dr. Mulhern reported normal range of motion in the hip and reported that an x-ray interpretation revealed that he had “some early changes of degenerative arthritis.” He recommended that appellant “begin to think about getting away from a walking mail route as I think that this is probably aggravating his symptoms.” The Board notes that Dr. Mulhern’s opinion that walking as a letter carrier probably aggravated his degenerative is speculative. Medical opinions which are speculative or equivocal are of diminished probative value.<sup>11</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 the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.<sup>12</sup> Causal relationship must be established by rationalized medical opinion evidence and he failed to submit such evidence.<sup>13</sup>

As there is no rationalized medical evidence of record establishing that appellant’s left hip arthritis was caused or aggravated by his employment duties as alleged, the Board finds that he has failed to meet his burden of proof.

### **CONCLUSION**

The Board finds that appellant did not meet his burden of proof to establish that he sustained his left hip and degenerative arthritis condition in the performance of duty.

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<sup>10</sup> *Mary E. Marshall*, 56 ECAB \_\_\_\_ (Docket No. 04-1048, issued March 25, 2005).

<sup>11</sup> *Cecelia M. Corley*, 56 ECAB \_\_\_\_ (Docket No. 05-324, issued August 16, 2005).

<sup>12</sup> *Kathryn E. Demarsh*, 56 ECAB \_\_\_\_ (Docket No. 05-269, issued August 18, 2005).

<sup>13</sup> *Frankie A. Farinacci*, 56 ECAB \_\_\_\_ (Docket No. 05-1282, issued September 2, 2005).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 28, 2006 is affirmed.

Issued: November 14, 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