

FACTUAL HISTORY

On July 8, 2011 appellant, then a 37-year-old letter carrier, filed an occupational disease claim alleging that he sustained an injury as a result of his employment. He explained that his hips became misaligned on June 6, 2011 while he was carrying 15 pounds in his satchel and he experienced further trauma as he continued to work that week. Appellant previously sustained a nonwork-related injury to his right fibula in 1995 and to his back in 2000. He also noted that he experienced tightness and discomfort from his sciatic nerve into his right leg in July 2009, but the discomfort did not cause him to miss any work.

Appellant submitted form reports from Dr. Walid S. Hammoud, a Board-certified surgeon, dated June 13 and 20, 2011. Dr. Hammoud reported a history that appellant carried extra mail weight the previous week and experienced numbness from his right hamstring to his foot. He diagnosed right sciatica and provided work restrictions. In summarizing appellant's medical history, Dr. Hammoud noted that appellant had undergone a L5-S1 discectomy in 2001 and had recurrent low back pain. On June 27, 2011 he listed appellant's date of injury as June 10, 2011 and reported that he developed pain in his right leg and low back after carrying extra weight of mail for several days. Dr. Hammoud stated that appellant had similar episodes in 2009, and diagnosed a lumbar and right piriformis sprain. He stated that appellant's condition was aggravated by his employment by checking a box "yes" on the report. Regarding appellant's current status, Dr. Hammoud noted that he had shown significant improvement and would return to limited duty the following week.

By letter dated July 12, 2011, OWCP advised appellant of the deficiencies in his claim. It requested that he submit a physician's opinion supported by a medical rationale as to how factors of his employment caused or aggravated his back or hip condition.

On July 19, 2011 OWCP received a June 11, 2011 note from Steven Walker, a physician's assistant, who diagnosed appellant's condition as piriformis syndrome.

In progress reports dated July 8 to 21, 2011, Dr. Hammoud diagnosed a sacroiliac sprain. He indicated that appellant's medical condition was caused by the incident described by checking "yes."

By report dated August 5, 2011, Dr. Hammoud diagnosed a lumbar sprain, and marked that appellant's injury was causally related to work by checking "yes."

On September 6, 2011 OWCP received a June 21, 2011 report from Dr. Michael H. Tunick, an osteopath, who noted that appellant presented with right hip pain and related a history of injury on June 10, 2011 when his satchel hit his right hip as he was walking and delivering mail. Dr. Tunick diagnosed a nonallopathic lesion in the lumbar, sacral, pelvic and lower extremity regions. He concluded that the incident was the competent medical cause of appellant's condition by checking "yes" in his report.

By decision dated October 6, 2011, OWCP denied appellant's claim on the grounds that he had failed to establish his claimed back or hip conditions were causally related to his employment activities.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 FECA, that the claim was timely filed, that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴

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.⁵

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 diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background, 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 compensable employment factors identified by the claimant.⁶

The Board has held that when a physician's opinion on causal relationship consists only of checking yes to a form question, it is of diminished probative value and is insufficient to establish causal relationship.⁷

ANALYSIS

Appellant alleged that he sustained a right hip injury during the week of June 6, 2011 when he carried heavy mail in his satchel. OWCP has accepted that he carried extra weight while in the performance of duty. The Board finds that appellant has not submitted sufficient medical evidence to establish that his diagnosed conditions were aggravated by his accepted work factors.

Dr. Hammoud's progress notes provided an accurate history of appellant's work duties. The Board notes that he offered several different diagnoses for appellant's condition during subsequent examinations. On June 13 and 20, 2011 Dr. Hammoud diagnosed right sciatica. On

³ 5 U.S.C. §§ 8101-8193.

⁴ *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁶ *D.G.*, 59 ECAB 734 (2008); *G.T.*, 59 ECAB 447 (2008); *I.J.*, 59 ECAB 408 (2008).

⁷ *E.g., Lillian M. Jones*, 34 ECAB 379 (1982).

June 27, 2011 he diagnosed lumbar and right piriformis sprain. On July 8, 15 and 21, 2011 Dr. Hammoud diagnosed sacroiliac sprain and on August 5, 2011 he diagnosed a lumbar sprain. Dr. Hammoud did not provide a medical narrative report addressing how the various diagnoses related to the work appellant performed. As to causal relationship, he generally indicated with a checkmark that appellant's condition was aggravated by his work conditions. Dr. Hammoud did not provide any medical rationale explaining how appellant's employment factors caused or contributed to any of the diagnoses. The Board notes that he reported that appellant had a preexisting history of an L5-S1 condition for which he had a discectomy in 2001, however, Dr. Hammoud never explained whether appellant's current complaints were an aggravation of the L5-S1 condition or any other previous injury. To establish his claim, appellant must submit a medical opinion from a physician who addresses causal relationship between the identified employment factors and the diagnosed condition and supports his conclusion with sound medical reasoning. As Dr. Hammoud merely checked yes to a form question, his opinion on causal relationship is of diminished probative value and insufficient to discharge appellant's burden of proof.

Similarly, Dr. Tunick's June 21, 2011 report reviewed appellant's history of injury and diagnosed a nonallopathic lesion in the lumbar, sacral, pelvic and lower extremity regions. He similarly addressed causation by a checkmark on the form reports. Lacking any medical rationale to explain how appellant's employment caused the diagnosed conditions his report also lacks probative value.

Section 8101(2) of FECA provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. A nurse, physician's assistant, or physical and occupational therapist is not a "physician" as defined by FECA. Their opinions regarding diagnosis and causal relationship are of no probative medical value.⁸ The June 11, 2011 medical note signed by Mr. Walker is of no probative value, as he is a physician's assistant, not a physician within the meaning of FECA.

Appellant did not submit sufficient medical evidence from a physician addressing causal relationship. He has not met his burden of proof.

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.

CONCLUSION

The Board finds that appellant has not met his burden to establish that he sustained an occupational injury caused by factors of his federal employment.

⁸ See *Roy L. Humphrey*, 57 ECAB 238 (2005).

ORDER

IT IS HEREBY ORDERED THAT the October 6, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 22, 2012
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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