



On appeal, appellant's counsel argues that the medical evidence of record is sufficient to establish her claim.

### **FACTUAL HISTORY**

On February 25, 2012 appellant, then a 52-year-old clerk, filed a traumatic injury claim alleging that on February 21, 2012, when bringing in a skid of circulars/advertisements, she sustained a severe pinched nerve in her neck, right shoulder and arm.

In support of her claim, appellant submitted her statement and a February 23, 2012 appointment slip and medical referral form.

By letter dated March 9, 2012, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised as to the medical and factual evidence to submit to support her claim and given 30 days to provide this evidence.

Subsequent to the letter requesting additional information, OWCP received medical evidence. A March 9, 2012 magnetic resonance imaging (MRI) scan revealed a large C5-6 disc herniation.

In a March 21, 2012 disability note, Dr. Eric A. Williams, an examining Board-certified orthopedic surgeon, diagnosed cervical disc disorder/herniation with myelopathy and found appellant totally disabled. In an April 4, 2012 disability certificate, he diagnosed C7-T1 nerve sheath tumor and found her totally disabled from April 4 to 11, 2012. On April 9, 2012 OWCP received a March 21, 2012 report from Dr. Williams who related that appellant developed weakness and pain at work due to pulling yellow pages. Dr. Williams reviewed a March 9, 2012 MRI scan and conducted a physical examination. He diagnosed spinal cord compression and severe right arm weakness.

In an April 3, 2012 report, Dr. Jane Kong, a treating Board-certified family practitioner, diagnosed a C5-6 disc herniation and severe radicular pain, which she indicated was likely due to appellant's employment injury.

By decision dated April 13, 2012, OWCP denied appellant's claim on the grounds that the medical evidence was insufficient to establish that her cervical condition was causally related to the accepted February 21, 2012 employment incident.

On April 18, 2012 appellant requested a telephonic hearing before an OWCP hearing representative, which was held on July 16, 2012. At the hearing she was represented by counsel and provided testimony.

In disability certificates dated April 16 and July 11, 2012, Dr. Williams diagnosed cervical myelopathy and found appellant totally disabled from April 11 to October 10, 2012.

On August 9, 2012 appellant submitted additional medical evidence including reports from Dr. Williams.

In a May 9, 2012 report, Dr. Williams diagnosed adhesived capsulitis. He stated that appellant was recovering from April 9, 2012 C4 to 6 anterior cervical discectomy and fusion. In a June 28, 2012 report, Dr. Williams diagnosed cervical myeloradiculopathy and right shoulder capsulitis. He stated that he was unable to state whether the C4-5 and C5-6 disc herniations with cervical myeloradiculopathy were exacerbated or caused by the February 21, 2012 employment incident. Dr. Williams attributed the conditions of cervical kyphosis, neck and arm pain and some arm weakness to her employment injury. He also found that appellant's cervical spine spondylosis with neck pain had been aggravated by her employment injury.

By decision dated September 26, 2012, an OWCP hearing representative affirmed the April 13, 2012 denial.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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 FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while 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 on a traumatic injury or an occupational disease.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.<sup>6</sup> First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>7</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>8</sup>

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.<sup>9</sup> An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>5</sup> *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 4.

<sup>7</sup> *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

<sup>8</sup> *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 4.

<sup>9</sup> *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *Katherine J. Friday*, 47 ECAB 591 (1996).

the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.<sup>10</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup>

### ANALYSIS

OWCP accepted that the February 21, 2012 incident occurred as alleged. However, it found the evidence insufficient to establish that appellant sustained any medical condition as a result of the accepted February 21, 2012 employment incident. The Board finds that she failed to meet her burden of proof.

On June 28, 2012 Dr. Williams diagnosed cervical myeloradiculopathy and right shoulder capsulitis. He opined that appellant's cervical spine spondylosis with neck pain had been aggravated by the employment injury and that the conditions of cervical kyphosis, neck and arm pain and some arm weakness were caused by her employment injury. Dr. Williams was unable to confirm whether the C4-5 and C5-6 disc herniation with cervical myeloradiculopathy were exacerbated by the February 21, 2012 employment incident. He offered no rationale explaining how the accepted February 21, 2012 employment incident caused or aggravated appellant's cervical and arm conditions. Medical reports consisting solely of conclusory statements without supporting rationale are of little probative value.<sup>14</sup> In addition, medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee's burden of proof.<sup>15</sup> In view of the lack of any rationale provided by Dr. Williams on the issue of causal relationship, the Board finds that his report fails to establish that appellant's cervical and arm conditions were caused by the February 21, 2012 employment incident.

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<sup>10</sup> *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>11</sup> *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

<sup>12</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>13</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>14</sup> *Roma A. Mortenson-Kindschi*, *supra* note 9; *William C. Thomas*, 45 ECAB 591 (1994) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

<sup>15</sup> *See D.U.*, Docket No. 10-144 (issued July 27, 2010); *S.S.*, 59 ECAB 315 (2008); *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005); *William C. Thomas*, *id.*

The record contained reports and disability notes/certificates from Dr. Williams for the period March 21 to July 11, 2012. In a March 21, 2012 report, Dr. Williams noted that appellant developed weakness and pain following pulling yellow pages at work. Based upon a review of a March 9, 2012 MRI scan and physical examination, he diagnosed spinal cord compression and severe right arm weakness. In disability notes/certificates dated March 21, April 4, 16 and July 11, 2012, Dr. Williams found appellant to be totally disabled and reported diagnoses of cervical myelopathy, cervical disc disorder/herniation with myelopathy, C7-T1 nerve sheath tumor. In a May 9, 2012 report, he diagnosed adhesive capsulitis and reported that she was recovering from recent back surgery. Dr. Williams offered no opinion as to the cause of the diagnosed back condition or any relationship between the accepted February 21, 2012 employment incident and appellant's various conditions. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.<sup>16</sup> Thus, these reports are insufficient to support appellant's claim.

Dr. Kong, in an April 3, 2012 report, diagnosed a C5-6 disc herniation with severe radicular pain, which she attributed to appellant's accepted February 21, 2012 employment incident. As noted above, medical reports consisting solely of conclusory statements without supporting rationale are of little probative value.<sup>17</sup> Thus, Dr. Kong's report is insufficient to support appellant's burden.

A March 9, 2012 MRI scan revealed a large C5-6 disc herniation. This diagnostic test did not address causal relationship and it is insufficient to support the claim that her C5-6 disc herniation was caused by the February 21, 2012 employment incident.<sup>18</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's conditions became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.<sup>19</sup> Causal relationship must be established by rationalized medical opinion evidence and she failed to submit such evidence.

OWCP advised appellant that it was her responsibility to provide a comprehensive medical report which described her symptoms, test results, diagnosis, treatment and the physician's opinion, with medical reasons, on the cause of his condition. Appellant failed to submit appropriate medical documentation in response to OWCP's request. As there is no probative, rationalized medical evidence addressing how her claimed cervical and arm conditions

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<sup>16</sup> *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *K.W.*, 59 ECAB 271 (2007); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Dennis M. Mascarenas*, *supra* note 10.

<sup>17</sup> *See supra* note 14.

<sup>18</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

<sup>19</sup> *See D.U.*, *supra* note 15; *D.I.*, 59 ECAB 158 (2007); *Robert Broome*, 55 ECAB 339 (2004); *Anna C. Leanza*, 48 ECAB 115 (1996).

were caused or aggravated by the February 21, 2012 employment incident, she has not met her burden of proof to establish that she sustained an injury in the performance of duty.

On appeal, appellant's counsel contends that the medical evidence establishes appellant's claim. He noted that Dr. Williams' reports when viewed together contain a history of injury and resulting cervical and arm conditions. As explained above, neither Dr. Kong nor Dr. Williams provided any supporting rationale on how the accepted February 21, 2012 employment incident caused the diagnosed conditions. Medical opinions with no supporting rationale for causal relationship are insufficient to support appellant's 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 did not establish that she sustained neck, right shoulder and arm conditions related to the accepted February 21, 2012 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated September 26, 2012 is affirmed.

Issued: September 20, 2013  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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