



employment including the repetitive motions of bending, lifting, and arm and neck movements. She first became aware of her claimed condition on May 6, 2023, and first realized its relation to her federal employment on May 11, 2023. OWCP accepted the claim for thoracolumbar and lumbar disc displacement, and lumbar intervertebral disc degeneration. It paid appellant wage-loss compensation for intermittent disability on the supplemental rolls as of May 6, 2023.

In a report dated January 25, 2024, Dr. Syed Naseeruddin, a Board-certified family medicine physician with a subspecialty in sports medicine, recounted appellant's history of injury and her current complaints. He reviewed appellant's diagnostic testing and noted her physical examination findings. Dr. Naseeruddin requested expansion of the acceptance of appellant's claim to include the conditions of protrusion of thoracic intervertebral disc, sacroiliitis, and thoracic facet syndrome. He explained that thoracic disc protrusion occurs when one or more of the discs cushioning the thoracic vertebrae weaken and protrude from normal alignment, possibly impacting a nearby nerve causing pain. Dr. Naseeruddin described thoracic facet syndrome as a degenerative condition and sacroiliitis as an inflammation of the sacroiliac joint. He concluded that these conditions were due to her repetitive work duties such as lifting heavy objects, reaching, bending, and stooping, as appellant's work aggravated her thoracic and sacral spine degenerative changes and caused nerve damage and significant pain.

On January 30, 2024 OWCP referred appellant, together with the record, a statement of accepted facts (SOAF), and a series of questions to Dr. Michael H. Ralph, a Board-certified orthopedic surgeon, for a second opinion evaluation regarding the current status of her accepted conditions, work capacity, and further treatment recommendations.

In a report dated February 28, 2024, Dr. Ralph noted his review of the SOAF, as well as the medical evidence of record. He reported on examination that appellant had normal lower extremity reflexes, muscle tone, muscle strength, and sensation. After reviewing appellant's July 2023 lumbar and thoracic magnetic resonance imaging (MRI) scans which he related demonstrated no significant abnormalities, Dr. Ralph disagreed with the radiologist's interpretations of these scans. In responding to OWCP's question regarding whether appellant's work-related conditions had resolved, he stated that he questioned whether the accepted conditions "truly existed or not." Dr. Ralph also opined that appellant did not have an organic basis for any continued complaints causally related to the accepted conditions. He opined that appellant was capable of returning to her date-of-injury job and no further medical treatment was required. With respect to expanding the acceptance of the claim to include additional conditions, Dr. Ralph asserted that Dr. Naseeruddin had never examined appellant and did not have the training necessary to offer an opinion. Moreover, appellant's lumbar MRI scan did not show any pelvic abnormalities related to the sacroiliac joint. Dr. Ralph explained that inflammatory arthritis can be developed in the sacroiliac joint. However, appellant had no history of inflammatory arthritis, and it would not be due to any work activity.

By decision dated March 7, 2024, OWCP denied appellant's request for expansion of the acceptance of her claim, finding that the medical evidence of record was insufficient to establish thoracic facet syndrome and sacroiliitis causally related to her accepted employment injury.

Thereafter, OWCP received a March 7, 2024 report from Dr. Naseeruddin which was substantially similar to his January 25, 2024 report. Dr. Naseeruddin again opined that appellant's

repetitive job duties including bending, stooping, heavy lifting, and reaching aggravated her thoracic and sacral spine degenerative changes. The aggravation of her degenerative changes caused nerve damage and significant pain.

On April 4, 2024 appellant requested reconsideration of the March 7, 2024 decision. In support of her claim, she submitted an undated report from Dr. Naseeruddin responding to the March 7, 2024 decision and Dr. Ralph's report. He also disagreed with Dr. Ralph's review of the MRI scans noting that he omitted mention of an annular fissure, and his interpretation was contrary to the radiologist's findings.

On April 4, 2024 OWCP requested Dr. Ralph provide a supplemental report as a new lumbar MRI scan had been performed on March 11, 2024.

In a report dated April 4, 2024, Nicole Lane, a nurse practitioner, provided examination findings and diagnosed bilateral sacroiliac joint dysfunction, lumbar facet joint pain, lumbar disc degeneration, and lumbosacral radiculopathy. She related that review of appellant's March 11, 2024 lumbar MRI scan showed small L4-5 disc protrusion with all other lumbar levels within normal limits and a sacrum and coccyx MRI scan showed normal alignment.

By decision dated April 10, 2024, OWCP denied modification of the March 7, 2024 decision.

On April 10, 2024 appellant requested reconsideration. By decision dated April 15, 2024, OWCP denied reconsideration.

On April 16, 2024 appellant requested reconsideration of OWCP's April 10, 2024 decision.

Thereafter OWCP received a February 19, 2024 report from Ms. Lane detailing appellant's physical examination findings and diagnosing bilateral sacroiliac joint dysfunction, lumbar facet joint pain, sacroiliitis, and lumbar disc degeneration.

OWCP subsequently received February 15 and 16, and March 13, 2024 visit notes from Dr. Nakoma Johnson, a chiropractor, a February 22, 2024 visit note from Dr. David Wootton, a chiropractor, and a February 23, 2024 visit note from Dr. Logan Shemwell, a chiropractor, diagnosing thoracolumbar and lumbar disc displacement and lumbar intervertebral disc degeneration. It also received physical therapy notes dated February 22, 2024. A March 7, 2024 report from Dr. Naseeruddin which was duplicative of prior reports was also received. Appellant also submitted a March 11, 2024 lumbar MRI scan, and a March 11, 2024 sacrum and coccyx MRI scan.

OWCP also received an April 1, 2024 report from Dr. Naseeruddin, which was substantially similar to his prior reports regarding expansion of the acceptance of appellant's claim. Appellant also resubmitted an undated report from Dr. Naseeruddin.

In a report dated April 24, 2024, Dr. James Sigler, a Board-certified physiatrist, noted a medical history, reviewed diagnostic tests, and provided examination findings. He diagnosed lumbar radiculopathy, low back, myofascial, lumbar facet, and piriformis muscle pain; myalgia,

lumbar L4-5 disc herniation; lumbar radiculopathy; lumbar foraminal stenosis on the left at L4-5, chronic pain, and left side lumbago with sciatica.

On April 24, 2024 OWCP received a supplemental report dated April 12, 2024 from Dr. Ralph. Dr. Ralph related that review of appellant's March 11, 2024 lumbar MRI scan showed no changes from prior scans and her pelvic MRI scan showed normal sacroiliac joints. He related that he had previously answered OWCP's questions, and his opinion remained unchanged.

On May 16, 2024 appellant requested reconsideration of OWCP's April 10, 2024 decision.

By decision dated May 20, 2024, OWCP denied modification of its April 10, 2024 decision.

On June 11, 2024 appellant was seen by Ms. Lane who provided examination findings and diagnoses of lumbar radiculopathy, lumbar disc disease, and low back pain.

On June 13, 2024 appellant requested reconsideration.

By decision dated June 14, 2024, OWCP denied modification of the May 20, 2024 decision finding the evidence insufficient to support expansion of appellant's claim to include the diagnoses of thoracic facet syndrome and sacroiliitis.

### **LEGAL PRECEDENT**

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>2</sup>

The claimant bears the burden of proof to establish a claim for a consequential injury.<sup>3</sup> As part of this burden, he or she must present rationalized medical opinion evidence, based on a complete factual and medical background, establishing causal relationship.<sup>4</sup> The opinion of the physician must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's employment injury.<sup>5</sup>

When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent

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<sup>2</sup> *T.L.*, Docket No. 24-0541 (issued June 28, 2024); *K.T.*, Docket No. 19-1718 (issued April 7, 2020); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

<sup>3</sup> *T.L.*, *id.*; *S.S.*, Docket No. 21-1140 (issued June 29, 2022); *V.K.*, Docket No. 19-0422 (issued June 10, 2020); *A.H.*, Docket No. 18-1632 (issued June 1, 2020); *I.S.*, Docket No. 19-1461 (issued April 30, 2020).

<sup>4</sup> *F.A.*, Docket No. 20-1652 (issued May 21, 2021); *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *M.M.*, Docket No. 20-1557 (issued November 3, 2021); *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

intervening cause attributable to the claimant's own intentional misconduct.<sup>6</sup> The basic rule is that, a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.<sup>7</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the accepted employment injury must be based on a complete factual and medical background.<sup>9</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's employment injury.<sup>10</sup>

### ANALYSIS

The Board finds that this case is not in posture for decision.

In a February 28, 2024 report, Dr. Ralph noted his review of the SOAF, as well as the medical evidence of record. He opined that her accepted work conditions had resolved without residuals or disability. Dr. Ralph opined that expansion of the claim was not warranted noting that Dr. Naseeruddin did not examine appellant and was not qualified to offer his opinion. He also questioned whether the accepted conditions "truly existed or not." In an April 12, 2024 supplemental report, Dr. Ralph stated his opinion remained unchanged.

It is well established that a physician's opinion must be based on a complete and accurate factual and medical background. When OWCP has accepted an employment condition as occurring in the performance of duty, the physician must base his opinion on these accepted conditions.<sup>11</sup>

OWCP's procedures and Board precedent dictate that, when an OWCP medical adviser, second opinion specialist, or referee physician does not use the SOAF as the framework in forming his or her opinion, the probative value of the opinion is seriously diminished or negated

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<sup>6</sup> See *J.M.*, Docket No. 19-1926 (issued March 19, 2021); *I.S.*, Docket No. 19-1461 (issued April 30, 2020); see also *Charles W. Downey*, 54 ECAB 421 (2003).

<sup>7</sup> *J.M.*, *id.*; *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n.7 (2001).

<sup>8</sup> *E.M.*, *supra* note 4; *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *J.P.*, Docket No. 23-0975 (issued April 25, 2024); *M.V.*, *supra* note 5; *Victor J. Woodhams*, *supra* note 4.

<sup>10</sup> *Id.*

<sup>11</sup> *P.H.*, Docket No. 23-0665 (issued October 13, 2023); *K.S.*, Docket No. 22-1011 (issued January 5, 2023); *D.T.*, Docket No. 21-1168 (issued April 6, 2022); *G.B.*, Docket No. 20-0750 (issued October 27, 2020); *T.P.*, 58 ECAB 524 (2007).

altogether.<sup>12</sup> In addressing whether appellant's claim should be expanded to include other conditions as causally related to or consequential to the accepted injury, Dr. Ralph did not rely on the SOAF as a framework in reaching his conclusions. He reached findings and conclusions that were contrary to the findings in the SOAF.<sup>13</sup> The Board, thus, finds that Dr. Ralph's report is of diminished probative value, and is insufficient to carry the weight of the medical evidence.<sup>14</sup>

It is well established that proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter.<sup>15</sup> While the claimant has the responsibility to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence to see that justice is done.<sup>16</sup> Once it undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the issue in the case.<sup>17</sup> As noted, Dr. Ralph, in his February 28, 2024 report, did not rely on the SOAF.

On remand, OWCP shall refer appellant, a SOAF, and list of questions to a new second opinion physician in the appropriate field of medicine for a rationalized medical opinion as to whether the acceptance of appellant's claim should be expanded to include additional conditions causally related or consequential to the accepted employment injury. Following this, and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

### CONCLUSION

The Board finds that this case is not in posture for decision.

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<sup>12</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.6003 (October 1990). See also *P.H., id.*; *K.S., id.*; *D.T., id.*; *D.C.*, Docket No. 21-0780 (issued December 22, 2021); *Paul King*, 54 ECAB 356 (2003).

<sup>13</sup> *P.H., id.*; *V.L.*, Docket No. 22-0336 (issued September 28, 2022); *P.M.*, Docket No. 22-0211 (issued August 5, 2022); *J.M., III*, Docket No. 21-1213 (issued May 16, 2022).

<sup>14</sup> *Supra* note 12.

<sup>15</sup> *T.L.*, Docket No. 24-0541 (issued June 28, 2024); *N.L.*, Docket No. 19-1592 (issued March 12, 2020); *M.T.*, Docket No. 19-0373 (issued August 22, 2019); *B.A.*, Docket No. 17-1360 (issued January 10, 2018).

<sup>16</sup> *T.L., id.*; *P.T.*, Docket No. 21-0138 (issued June 14, 2021); *S.S.*, Docket No. 18-0397 (issued January 15, 2019); *Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

<sup>17</sup> *T.L., id.*; *L.N.*, Docket No. 22-0497 (issued September 14, 2023); *G.M.*, Docket No. 19-1931 (issued May 28, 2020); *W.W.*, Docket No. 18-0093 (issued October 9, 2018).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 14, 2024 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: August 28, 2024  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board