

² The Board notes that, following the July 16, 2024 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On August 8, 2023 appellant, then a 53-year-old rural carrier associate, filed an occupational disease claim (Form CA-2) alleging that she developed a low back condition due to factors of her federal employment. She noted that she had been involved in multiple accidents while working, and that this was the cause of an ongoing problem with her back that never resolved.³ Appellant noted that she first became aware of her condition on July 17, 2023 and realized its relationship to her federal employment on August 3, 2023. She did not stop work.

In an August 11, 2023 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence. In a separate development letter of even date, it requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor regarding the accuracy of her statement. OWCP afforded the employing establishment 30 days to respond.

OWCP subsequently received medical reports by Dr. Sanjaykumar B. Shah, a Board-certified family medicine specialist, dated April 5, 2018 through November 19, 2020, which noted complaints of back pain and treatment including oral steroids and back exercises. On November 19, 2020 Dr. Shah noted that she described lower back pain that radiated to the heel of her left foot, which she attributed to standing too long.

A December 10, 2020 magnetic resonance imaging (MRI) scan revealed a paracentral disc protrusion at L5-S1 toward the left side with associated stenosis and mild spondylotic changes at L3-4 and L4-5.

In a medical report dated December 15, 2020, Dr. Milan G. Mody, a Board-certified orthopedic surgeon, noted that appellant related complaints of low back pain with buttock and leg pain, left greater than right, which she attributed to a “pop in her back” “years ago” and pain that continued and worsened over time. He performed a physical examination, which revealed tenderness to palpation at L5-S1 and the left buttock, pain with extension of the lumbar spine, positive straight leg raise on the left, and reduced strength of the anterior tibialis and extensor hallucis longus muscles on the left. Dr. Mody reviewed the December 10, 2020 lumbar MRI scan and obtained x-rays that day, which revealed spondylolisthesis at L4-5 in flexion that reduced in extension, severe disc space narrowing at L5-S1, and mild spondylosis from L3 through L5. He diagnosed lumbar spondylolisthesis, stenosis with neurogenic claudication, lumbago, disc degeneration, and radiculopathy. Dr. Mody recommended lumbar epidural steroid injections and possible surgery.

³ OWCP assigned the present claim OWCP File No. xxxxxx807. Appellant has prior claims before OWCP: under OWCP File No. xxxxxx315, OWCP accepted neck strain due to a November 25, 2003 motor vehicle accident; under OWCP File No. xxxxxx753, appellant alleged a February 4, 2013 low back injury, which OWCP denied; under OWCP File No. xxxxxx575, OWCP accepted an April 26, 2014 sprain of back, lumbar region; and under OWCP File No. xxxxxx925, OWCP accepted October 18, 2022 bursitis, sprain, and partial thickness tear of the rotator cuff. These files have been administratively combined, with OWCP File No. xxxxxx925 serving as the master file.

OWCP also received follow-up reports by Dr. Shah dated January 7, 2021 and by Dr. Mody dated March 15 through December 14, 2021, which noted ongoing conservative treatment for low back and left leg pain.

Appellant underwent injections, nerve blocks, and radiofrequency neurolysis, to the lumbar spine by Dr. David E. Hirsch, a Board-certified pain medicine and anesthesiology specialist, between December 20, 2021 and December 8, 2022. Dr. Hirsch diagnosed lumbosacral radiculopathy.

In follow-up reports dated February 8 through November 9, 2022, Dr. Mody documented appellant's complaints, examination findings, and treatment with Dr. Hirsch.

In a statement dated June 26, 2023, appellant indicated that, on that date, she tripped over cases of mail at work and exacerbated her preexisting low back pain.

In a letter dated August 3, 2023, Dr. Hirsch released appellant to return to work without restrictions, effective August 5, 2023.

OWCP also received additional follow-up reports by Dr. Mody and Dr. Shah dated August 21 and September 6, 2023, respectively. On August 21, 2023 Dr. Mody released appellant to return to work, effective August 22, 2023.

In a September 5, 2023 response to OWCP's development letter, the employing establishment indicated that appellant's job duties consisted of lifting, pushing, pulling, bending, and stooping for approximately 30 minutes at a time throughout the course of the workday. It also noted that there had not been any accommodations requested by her, nor assistance or precautions to minimize the effects of these activities due to management not being aware of an accident or injury.

In a follow-up development letter dated September 29, 2023, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the August 11, 2023 letter to submit the necessary evidence. OWCP further advised that if additional evidence was not received during this time, it would issue a decision based on the evidence contained in the record. No further evidence was received.

By decision dated December 13, 2023, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed medical conditions and the accepted employment factors. Consequently, it concluded that she had not met the requirements to establish an injury as defined by FECA.

On January 8, 2024 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review. In support of her request, she submitted a statement which indicated that she fell at work on June 26, 2023, not July 17, 2023, and that she believed she had a recurring back injury. Appellant also submitted an April 27, 2015 medical report by an unknown provider, which noted a work-related lumbar sprain/strain and recommended light-duty restrictions.

In an April 20, 2023 operative note, Dr. Hirsch performed bilateral radiofrequency neurolysis from L4 through S1 and diagnosed spondylosis without myelopathy or radiculopathy of the lumbosacral region.

Following a preliminary review, by decision dated February 15, 2024, OWCP's hearing representative set aside the December 13, 2023 decision and remanded the case for further development.

In a March 12, 2024 statement, appellant attributed her low back condition to a 2003 work-related motor vehicle accident, which was exacerbated by a fall at work on June 26, 2023.

By *de novo* decision dated March 21, 2024, OWCP converted appellant's occupational disease claim to one for a traumatic injury and accepted that appellant had a fall at work on June 26, 2023, as alleged. It denied the claim, however, finding that the evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted June 26, 2023 employment incident.

OWCP continued to receive evidence, including a follow-up note by Dr. Shah dated March 19, 2024, who indicated that appellant related that her back pain was worse with working and standing and was interfering with her job as a mail carrier. Dr. Shah diagnosed bilateral shoulder pain, thoracic back pain, lumbar stenosis and low back pain. He indicated that appellant was a candidate for lumbar fusion surgery.

Dr. Hirsch, in a report dated April 11, 2024, performed a left L4-5 lumbar transforaminal epidural steroid injection and diagnosed lumbar radiculopathy.

On April 16, 2024 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review. In support of her request, she submitted a February 22, 2024 lumbar MRI scan, which revealed slight interval progression of degenerative disc disease at L3-4 and L4-5. Appellant also submitted a statement, which indicated that after her fall on June 26, 2023 "my back started to hurt again which I reaggravated my back again." She also noted that "this is a recurring aggravation with my back it doesn't get better with all of the standing, lifting, bending, reaching, and twisting that I do every day on this job."

By decision dated July 16, 2024, OWCP's hearing representative affirmed the March 21, 2024 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish 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 with the applicable time limitation, that an injury was sustained while in the performance of duty, as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the

⁴ *Supra* note 1.

employment injury.⁵ These are the essential elements of every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, OWCP must first determine whether fact of injury has been established.⁷ There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged.⁸ Second, the employee must submit evidence to establish that the employment incident caused an injury.⁹

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹⁰ A physician's opinion on whether there is a causal relationship between the diagnosed condition and the employment incident must be based on a complete factual and medical background.¹¹ 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 the accepted employment incident.¹²

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹³

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a low back condition causally related to the accepted June 26, 2023 employment incident.

In support of her claim, appellant submitted medical reports by Drs. Shah, Mody, and Hirsch, who diagnosed lumbar spondylolisthesis, stenosis with neurogenic claudication, lumbago, disc degeneration, radiculopathy, and spondylosis without myelopathy. However, none of these

⁵ *E.S.*, Docket No. 18-1580 (issued January 23, 2020); *M.E.*, Docket No. 18-1135 (issued January 4, 2019); *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁶ *E.S.*, *id.*; *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *S.P.*, *id.*

⁸ *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Bonnie A. Contreras*, *supra* note 5.

⁹ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁰ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

¹¹ *S.V.*, Docket No. 22-1010 (issued February 21, 2023); *F.A.*, Docket No. 20-1652 (issued May 21, 2021); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹² *Id.*

¹³ *See D.M.*, Docket No. 24-0512 (issued December 9, 2024).

physicians offered an opinion regarding the cause of the diagnosed conditions. The Board has held that an opinion which does not address the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁴ Thus, these reports are insufficient to establish appellant's claim.

The remaining evidence of record consisted of MRI scans. The Board has held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the accepted employment incident caused a diagnosed condition.¹⁵ Therefore, this evidence is also insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish causal relationship between appellant's diagnosed low back conditions and the accepted June 26, 2023 employment incident, the Board finds that she has not met her burden of proof.¹⁶

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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a low back condition causally related to the accepted June 26, 2023 employment incident.

¹⁴ *T.D.*, Docket No. 19-1779 (issued March 9, 2021); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

¹⁶ *See J.T.*, Docket No. 18-1755 (issued April 4, 2019); *T.O.*, Docket No. 18-0139 (issued May 24, 2018).

ORDER

IT IS HEREBY ORDERED THAT the July 16, 2024 decision of the Office of Workers' Compensation Programs is affirmed.¹⁷

Issued: January 31, 2025
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

¹⁷ James D. McGinley, Alternate Judge, participated in the preparation of this decision, but was no longer a member of the Board effective January 12, 2025.