

FACTUAL HISTORY

On March 19, 2012 appellant, then a 60-year-old aircraft electrician, filed a traumatic injury claim, alleging that he had sustained a lower back injury on March 16, 2012 in performance of his work duties when he sat on a chair that had been lowered to its lowest position.

By letter dated March 28, 2012, OWCP requested that appellant provide additional factual and medical evidence within 30 days.

OWCP received a March 16, 2012 report from Dr. Sue Schemel, an emergency medicine physician. The report noted that appellant experienced back pain and numbness in the left leg after sitting in a chair that was lower than he expected while he was at work. Appellant's condition was diagnosed as lumbar strain.

Also submitted was a March 21, 2012 report from Dr. Luis A. Mendoza, an emergency medicine physician, who noted that appellant was "involved in a work[-]related incident" on March 16, 2012. In the history of injury section of his report, Dr. Mendoza stated that appellant was "attempting to sit in his chair which someone had lowered the chair as far as it will go," and when appellant went to sit down, he "ended up landing in the chair hard"; and because the chair's cushion was thin, his left buttock and coccyx were injured. Dr. Mendoza also indicated in the "chief complaint" section of the report that "as a direct result of this accident, [appellant] continued to complain of moderate to severe pain to the coccyx, left buttock with pain, numbness, tingling and weakness to the lower extremity." He diagnosed appellant with acute exacerbation of lumbar sprain, fractured coccyx, contusion to the coccyx and left sciatic. OWCP also received a March 29, 2012 work capacity form from Dr. Mendoza which indicated that appellant was temporarily totally disabled.

In a March 31, 2012 statement, appellant described the accident, his back condition and the subsequent treatments for his condition. He also indicated that he had sustained a previous back injury at work and that the March 16, 2012 incident caused further injury to his existing condition.

Appellant also submitted treatment notes signed by Geert Bos, a physical therapist.

By decision dated May 3, 2012, OWCP denied appellant's claim on the grounds that he had failed to submit medical evidence to establish that his alleged back injury was causally related to the accepted work incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged,

³ 5 U.S.C. §§ 8101-8193.

and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

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. 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.⁶ 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.⁷

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is a causal relationship between his or her claimed injury and his or her employment.⁸ To establish a causal relationship, appellant must submit a physician's report, in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and his medical history, states whether the employment injury caused or aggravated appellant's diagnosed conditions and presents medical rationale in support of his opinion.⁹

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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.¹⁰

ANALYSIS

OWCP has accepted that the incident occurred as alleged on March 16, 2012. Appellant sat down in a chair that was lower than he expected. The Board finds that he failed to establish that his lower back condition was causally related to the March 16, 2012 employment incident.

Appellant has not established that this incident caused his diagnosed low back conditions. In support of his claim, he submitted Dr. Schemel's March 16, 2012 and Dr. Mendoza's

⁴ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *Id.*

⁸ *Donald W. Long*, 41 ECAB 142 (1989).

⁹ *Id.*

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *supra* note 5 at 352.

March 21, 2012 medical reports. While both Dr. Schemel and Dr. Mendoza referenced appellant's March 16, 2012 workplace incident and provided a firm diagnosis of his condition in their reports, they did not provide a well-rationalized medical opinion as to how sitting down on a low chair could aggravate his lower back condition. The Board notes that, while appellant has acknowledged that he had sustained a previous back injury, which he has claimed was caused by his federal employment, neither Dr. Schemel nor Dr. Mendoza provided any factual or medical history relative to his back condition, prior to March 16, 2012. Both the March 16 and 21, 2012 medical reports only noted appellant's workplace incident in the "history" section, and did not discuss how the incident impacted his lower back. The Board has held that a physician's opinion on causal relationship which consists of merely restating the employee's complaints is insufficient to establish a claim.¹¹ Dr. Mendoza stated in the "chief complaint" section that appellant suffered back pain as a direct result of his work incident. However, without further discussion and rationale,¹² he failed to explain how sitting down on the chair caused or aggravated appellant's diagnosed condition. As Dr. Schemel and Dr. Mendoza did not provide a medical explanation, incorporating a proper medical history, explaining how sitting down in a low chair caused the diagnosed conditions, rather than just the complaints of pain, the Board finds that their opinions are insufficient to establish appellant's claim.

The treatment notes signed by Mr. Bos is also of little probative value in establishing appellant's claim, as a physical therapist is not a physician as defined under FECA.¹³

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 of proof in establishing that he sustained a traumatic injury in the performance of duty on March 16, 2012.

¹¹ *William A. Archer*, 55 ECAB 674 (2004); *see also Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹² *See George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

¹³ *See B.B.*, Docket No. 09-1858 (issued April 16, 2010); *L.D.*, 59 ECAB 648 (2008); *David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician's assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law).

ORDER

IT IS HEREBY ORDERED THAT the May 3, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 6, 2012
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