

FACTUAL HISTORY

On July 16, 2014 appellant, then a 67-year-old ophthalmology health technician, filed a traumatic injury claim alleging that on July 9, 2014 she strained her lower back while trying to move equipment that had locked in place. She stopped work on the date of injury and returned to limited-duty work on July 14, 2014.

A May 28, 2014 lumbar magnetic resonance imaging (MRI) scan report showed the printed name of Dr. Vincent J. Turiano, a Board-certified radiologist. The report diagnosed generalized mild-to-moderate spondylitic changes most marked at L2-3, endplate irregularities, encroachment and narrowing of select neural foramina, and degenerate facet changes. The report also revealed severe spinal stenosis on a multifactorial basis at L4-5, moderate functional stenosis at L5-S1, moderate-to-severe spinal stenosis at L3-4, mild spinal stenosis at L2-3, a left paracentral disc bulging at L1-2, and no spinal stenosis.

A July 9, 2014 medical report prepared by an employing establishment physician, whose signature is illegible, stated that appellant sustained a work-related injury and she could return to work with restrictions on July 14, 2014. In a prescription dated July 9, 2014, the same physician requested that appellant be excused from work on July 10 and 11, 2014.

In a July 16, 2014 lumbar MRI scan report, Dr. Roger Ramos, a Board-certified radiologist, found an L1-2 disc bulge, and an L2-3 disc bulge with associated posterior spondylosis and spinal stenosis and bilateral neural foraminal narrowing. He further found a disc bulge at L3-4 associated with posterior central herniation and annular tear, and mild-to-moderate narrowing of the spinal canal. There was a disc bulge at L4-5 and posterior central herniation, mild-to-moderate narrowing of the spinal canal, an associated right lateral annular tear, and mild narrowing of the neural foramina bilaterally. A disc bulge was found at L5-S1.

In a July 22, 2014 progress note, Dr. David R. Campbell, a Board-certified orthopedic surgeon, provided a history of injury that on July 19, 2014 appellant tried to pull open an eye machine, but she could not do so. He noted her complaints, which included sharp low back pain and spasms that radiated into her left groin, and her medical treatment. Dr. Campbell also noted that appellant had filed a claim for an October 2013 injury that was denied. He provided findings on physical examination and reviewed diagnostic test results. Dr. Campbell assessed appellant as having lumbago, muscle spasm, degeneration of the lumbar or lumbosacral intervertebral disc, displacement of the lumbar intervertebral disc without myelopathy, spinal stenosis of the lumbar region, unspecified thoracic or lumbosacral neuritis or radiculitis, and an abnormal gait. He advised her that surgery was indicated. On July 24, 2014 Dr. Campbell requested authorization for surgery.

By letter dated July 29, 2014, OWCP advised appellant that, although it had initially handled the claim administratively because the injury appeared to be minor and resulted in minimal or no time lost from work, it had now reopened the claim for consideration of the merits because she had requested authorization for surgery. It notified her of the deficiencies of her claim and afforded her 30 days to submit additional factual and medical evidence, including a physician's opinion as to how her injury resulted in the diagnosed condition, supported by a medical explanation as to how the reported work incident caused or aggravated a medical

condition. OWCP also requested that the employing establishment submit medical evidence, if appellant had been treated at its medical facility.

On August 26, 2014 appellant described her claimed injury. She had tried to adjust a broken eye machine several times and developed severe pain in her lower back, and severe nausea and dizziness. Appellant felt like she was going to faint. She called for assistance after she put her patient into a room. Appellant stated that on November 24, 2013 she sustained a back injury which she reported to a nurse manager. She missed work earlier in 2014, received epidurals, and underwent diagnostic testing on her back. Appellant stated that her back was feeling better.

In a July 22, 2014 Florida State Workers' Compensation medical treatment form, Dr. Campbell diagnosed lumbar stenosis and radiculopathy. He stated that the diagnosed conditions were work related. He also stated that appellant had a preexisting condition which was aggravated by the diagnosed conditions that she had not reached maximum medical improvement and was still unable to work.

In an undated authorization for examination and/or medical treatment (Form CA-16), Dr. Campbell provided a history of injury that on July 9, 2014 appellant injured her back while moving equipment. He diagnosed a herniated lumbar disc. Dr. Campbell indicated with an affirmative mark that the diagnosed condition was caused or aggravated by an employment activity, and added the notation, "as above and please see copy of history and physical." He advised that appellant continued to be totally disabled from July 9, 2014.

By letter dated July 30, 2014, the employing establishment controverted appellant's claim, contending that Dr. Campbell's opinion was not rationalized.

In a September 3, 2014 decision, OWCP accepted that the July 9, 2014 incident occurred as alleged. It denied appellant's claim, however, finding that the medical evidence failed to establish that her back condition was causally related to the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence³ including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established.⁵

² *Id.* at §§ 8101-8193.

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁴ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

There are two components involved in establishing the fact of injury. 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

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁷ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.⁸ The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.⁹

ANALYSIS

OWCP accepted that on July 9, 2014 appellant moved broken equipment while in the performance of duty. It found that the medical evidence failed to establish that she sustained a back injury as a result of the accepted incident.

The Board finds that appellant failed to provide sufficient medical evidence to establish a back injury causally related to the accepted July 9, 2014 employment incident.

Dr. Campbell's Form CA-16 diagnosed appellant as having herniated lumbar disc and reported that she was totally disabled from July 9, 2014 to a present unknown date. He provided a history of the accepted July 9, 2014 employment incident and indicated with an affirmative mark that the diagnosed condition was caused or aggravated by the work incident, adding the notation, "as above and please see copy of history and physical." The Board has held that an opinion consisting of a physician's checkmark is of diminished probative value without any explanation or rationale for the conclusion reached.¹⁰ While Dr. Campbell referenced the history of injury and his physical examination findings as the basis for his conclusion, he did not clearly explain how the mechanism of injury on July 9, 2014 caused or aggravated appellant's back condition. The Board finds that Dr. Campbell's July 22, 2014 Florida State Workers' Compensation form is also of diminished probative value because although he found work-related lumbar stenosis and radiculopathy, he stated that a preexisting condition had been aggravated too. However, he did not identify the preexisting condition or provide any opinion explaining how the accepted work injury caused or aggravated the preexisting condition, diagnosed conditions, and resultant disability. The Board has held that a medical opinion not fortified by rationale is of diminished probative value.¹¹

⁶ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁷ *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

⁸ *Lourdes Harris*, 45 ECAB 545 (1994); see *Walter D. Morehead*, 31 ECAB 188 (1979).

⁹ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

¹⁰ *D.D.*, 57 ECAB 734 (2006); *Sedi L. Graham*, 57 ECAB 494 (2006).

¹¹ *Cecilia M. Corley*, 56 ECAB 662 (2005).

The Board notes that, in his July 22, 2014 progress note, Dr. Campbell diagnosed lumbago, muscle spasm, degeneration of the lumbar or lumbosacral intervertebral disc, displacement of the lumbar intervertebral disc without myelopathy, spinal stenosis of the lumbar region, unspecified thoracic or lumbosacral neuritis or radiculitis, and an abnormal gait. He provided examination findings and recommended surgery. Dr. Campbell, in the same report, indicated that the date of injury was July 19, 2014 and not July 9, 2014 and provided no opinion on whether the accepted July 9, 2014 employment incident caused or aggravated her diagnosed conditions. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value.¹²

Dr. Ramos' diagnostic test results addressed appellant's lumbar conditions, but failed to provide a rationalized opinion regarding the causal relationship between the diagnosed conditions and the accepted employment incident.¹³

The May 28, 2014 report which contained the printed name of Dr. Turiano, and July 9, 2014 report and prescription which contained an unknown signature are insufficient to establish appellant's claim. A report that is unsigned or bears an illegible signature lacks proper identification as a physician and cannot be considered probative medical evidence.¹⁴

Therefore, the Board finds that there is insufficient medical evidence to establish that appellant sustained a back injury causally related to the accepted July 9, 2014 employment incident.

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 her burden of proof to establish a back injury on July 9, 2014 while in the performance of duty.

¹² *K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

¹³ *Id.*

¹⁴ *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

ORDER

IT IS HEREBY ORDERED THAT the September 3, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 18, 2015
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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