

duty. She stopped work on May 2, 2017 and returned on May 16, 2017. OWCP accepted appellant's claim for bilateral knee contusions, cervical spine sprain, bilateral hand contusions, and right foot strain.

Appellant continued to receive medical treatment. In a letter dated May 3, 2018, Dr. Marvin Van Hal, a Board-certified orthopedic surgeon, indicated that she had informed him that she injured her lumbar spine when she fell forward onto her hands and knees. He noted that a lumbar spine magnetic resonance imaging (MRI) scan demonstrated facet changes.² Dr. Van Hal noted that appellant's back was not accepted as part of her work injury, but his records indicated that she had previously complained of lumbar spine discomfort. On physical examination, he observed that she had 10 degrees of extension and increased low back pain on range of motion. Dr. Van Hal explained that, "[g]iven [appellant's] clinical picture and her current continued pain and multiple areas of dysfunction," OWCP should include a lumbar spine strain as a consequential injury or an aggravation of a preexisting condition due to the April 28, 2017 employment injury. In an accompanying duty status report (Form CA-17), he indicated that she could work with restrictions.

In a report and Form CA-17 dated August 9, 2018, Dr. Van Hal noted examination findings of positive straight leg raise testing bilaterally. He assessed that appellant had multiple musculoskeletal and possible other issues contributing to a slow recovery.

On September 18, 2018 OWCP referred appellant, a statement of accepted facts (SOAF), and a series of questions, to Dr. James E. Butler, III, a Board-certified orthopedic surgeon, for a second opinion evaluation to determine whether she had a lumbar condition as a consequence of her accepted April 28, 2017 employment injury. In a report dated October 25, 2018, Dr. Butler reviewed her history of injury and the SOAF. He noted that appellant's claim was accepted for bilateral knee contusions, cervical spine sprain, right foot strain, and bilateral hand contusions. Dr. Butler recounted her complaints of pain in the lower back, bilateral wrists, right knee, ankle, hip, and neck. On physical examination, he observed no sensory deficits bilaterally of the spinal dermatomes or the lower extremities. Examination of appellant's cervical spine revealed tenderness at the C7-T1 levels on palpation. Dr. Butler reported that she was unable to move her right ankle and could barely move her right foot and toes. He diagnosed knee contusions, cervical spine sprain, right foot/ankle sprain, right ankle tenosynovitis, and hand contusions. In response to OWCP's questions, Dr. Butler opined that appellant's bilateral hand contusions, cervical spine sprain, and left knee contusion had resolved. He reported that she still had residuals of her right foot and knee conditions and noted that physical examination revealed significantly-restricted range of motion, weakness, and gait abnormality. Dr. Butler also indicated that there was "no objective evidence to support the lumbar spine condition as causally related to work-related injury of [April 28, 2017]." He explained that there was no evidence that appellant reported any lumbar spine pain after the April 28, 2017 fall at work. Dr. Butler indicated that, while Dr. Van Hal mentioned a September 8, 2017 lumbar spine MRI scan, the findings were consistent with degenerative changes, and unlikely caused by a single trip and fall incident.

In reports and CA-17 forms dated October 4, 2018 through May 9, 2019, Dr. Van Hal indicated that appellant had multiple musculoskeletal complaints for her cervical spine, lumbar

² A September 8, 2017 lumbar spine MRI scan revealed mild grade 1 anterolisthesis of L4 on L5, upper lumbar scoliosis with right convexity, mild multilevel spondylosis with annular-type disc bulges, and multilevel neural foraminal narrowing, most notable at left L4-5.

spine, and right lower extremities and slow progress with recovery. He reported that it was difficult to conduct a clinical examination because of her symptoms and lack of effort. Dr. Van Hal opined that appellant had chronic pain disorder associated with musculoskeletal dysfunction with suggestion of fibromyalgia-type syndrome and cervical pathology associated with spondylosis.

On May 20, 2019 OWCP received a request for authorization of an MRI scan of appellant's lumbar spine.

In a letter dated May 23, 2019, OWCP indicated that it had received appellant's request for authorization of a lumbar spine MRI scan. It advised her that the medical evidence of record was insufficient to authorize the proposed treatment because she did not have an accepted lumbar spine condition. OWCP requested that appellant provide a detailed narrative medical report from her treating physician explaining how a diagnosed lumbar condition was caused or aggravated by her April 28, 2017 employment injury.

A May 22, 2019 lumbar spine MRI scan demonstrated degenerative changes without central spinal stenosis or neural foraminal stenosis, mild dextrosciosis, and grade 1 anterolisthesis of L4 on L5.³

In reports and CA-17 forms dated June 20 through October 24, 2019, Dr. Van Hal noted that appellant continued to complain of multiple musculoskeletal issues. He provided examination findings and diagnosed chronic recurrent pain, multiple musculoskeletal issues, and underlying disorder of the lumbar spine.

Appellant also submitted a February 6, 2019 report by Dr. Dorit Sar-Shalom, a chiropractor, who noted appellant's complaints of neck, right knee, and right ankle pain. Dr. Sar-Shalom provided examination findings and diagnosed cervical spine sprain, right knee and right foot contusions, and right foot strain.

On August 26, 2019 OWCP expanded the acceptance of appellant's claim to include right ankle tenosynovitis.

In a report and Form CA-17 dated January 16, 2020, Dr. Van Hal indicated that the claims examiner had requested an explanation about appellant's lumbar spine condition. He opined that she has a lumbar strain and an underlying anterolisthesis of L4 on L5 and facet changes. Dr. Van Hal reported that straight leg raise testing showed increased tightness in both legs and pain in the right leg. He diagnosed major psychosocial issues and pain control issues and recommended that appellant work from home and with restrictions.

In reports and Forms CA-17 dated June 1, 2020 through March 25, 2021, Dr. Van Hal recounted that appellant still had symptoms into her ankle, knee, hip, and arm. He reported that she could work with restrictions and recommended that she work from home.

By decision dated November 16, 2021, OWCP denied expansion of the acceptance of appellant's claim to include a consequential lumbar injury. It found that the weight of the medical

³ OWCP subsequently authorized appellant's request for a lumbar spine MRI scan.

evidence rested with the October 25, 2018 opinion of Dr. Butler, OWCP's second opinion examiner.

LEGAL PRECEDENT

When 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.⁴

The claimant bears the burden of proof to establish a claim for a consequential injury.⁵ 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.⁶ 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 his or her employment injury.⁷

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 intervening cause attributable to the claimant's own intentional misconduct.⁸ 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.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include a lumbar condition causally related to, or consequential to, her accepted April 28, 2017 employment injury.

In an October 25, 2018 report, Dr. Butler, an OWCP second opinion examiner, opined that there was no objective evidence to support a lumbar spine condition as a consequence of the April 28, 2017 employment injury. He noted that appellant did not report lumbar spine pain after the April 28, 2017 employment injury and that lumbar spine MRI scan findings were consistent with degenerative changes, not a single trip and fall incident. Dr. Butler's report is well

⁴ *J.R.*, Docket No. 20-0292 (issued June 26, 2020); *W.L.*, Docket No. 17-1965 (issued September 12, 2018); *V.B.*, Docket No. 12-0599 (issued October 2, 2012); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

⁵ *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).

⁶ *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).

⁷ *M.M.*, Docket No. 20-1557 (issued November 3, 2021); *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

⁸ *I.S.*, Docket No. 19-1461 (issued April 30, 2020); *A.M.*, Docket No. 18-0685 (issued October 26, 2018); *Mary Poller*, 55 ECAB 483, 487 (2004).

⁹ *J.M.*, Docket No. 19-1926 (issued March 19, 2021); *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n. 7 (2001).

rationalized and is based on examination findings and an accurate history of injury. Therefore, the Board finds that his report constitutes the weight of the medical evidence.¹⁰

The evidence submitted in support of the appellant's expansion claim is insufficient to overcome the weight accorded to Dr. Butler as the second opinion physician, or to create a conflict in medical opinion.

Appellant submitted a May 3, 2018 report from Dr. Van Hal who indicated that appellant had informed him of a lumbar spine injury when she fell forward onto her hands and knees. He noted lumbar spine MRI scan findings and provided examination findings. Dr. Van Hal explained that, "[g]iven [appellant's] clinical picture and her current continued pain and multiple areas of dysfunction," OWCP should include a lumbar spine strain as a consequential injury or an aggravation of a preexisting condition due to the April 28, 2017 employment injury. However, he did not provide sufficient medical rationale to explain how the lumbar strain was causally related to the accepted April 28, 2017 employment injury. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition has an employment-related cause.¹¹ Therefore, this report is insufficient to establish appellant's expansion claim.

The additional reports and CA-17 forms by Dr. Van Hal are likewise insufficient to establish appellant's expansion claim as none of them address the issue of whether her lumbar spine condition was causally related to the accepted April 28, 2017 employment injury. As the Board has held, medical evidence that does not provide an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹² Therefore, this evidence is insufficient to establish appellant's claim.

Appellant also submitted a May 22, 2019 lumbar spine MRI scan. However, diagnostic studies, standing alone lack probative value on causal relationship as they do not address whether her employment caused the diagnosed condition.¹³

As the medical evidence of record is insufficient to establish causal relationship, the Board finds that appellant has not met her burden of proof to establish the expansion of her claim.

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.

¹⁰ A.C., Docket No. 21-1093 (issued July 21, 2022).

¹¹ See L.G., Docket No. 21-0770 (issued October 13, 2022); T.T., Docket No. 18-1054 (issued April 8, 2020); Y.D., Docket No. 16-1896 (issued February 10, 2017).

¹² See S.Y., Docket No. 20-0347 (issued March 31, 2023); T.H., Docket No. 18-0704 (issued September 6, 2018); L.B., Docket No. 18-0533 (issued August 27, 2018); D.K., Docket No. 17-1549 (issued July 6, 2018).

¹³ See M.D., Docket No. 21-1270 (issued March 21, 2022).

CONCLUSION

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include a lumbar condition causally related to, or consequential to, her accepted April 28, 2017 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the November 16, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 9, 2023
Washington, DC

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

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

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