

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of JOE WHITAKER and U.S. POSTAL SERVICE,  
POST OFFICE, Miami, Fla.

*Docket No. 97-923; Submitted on the Record;  
Issued December 17, 1998*

---

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty, as alleged.

On January 3, 1996 appellant, then a 56-year-old special delivery messenger, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging a left heel spur caused by his federal employment. Appellant indicated that he first sought medical treatment, became aware of and realized that his disease or illness was caused or aggravated by factors of his federal employment on November 8, 1995. He also stated that on "November 8, 1995, after talking to the doctor and explaining to him the kind of work I do, that my job does not help in the healing [process] or not in my favor and could possibly cause the spur." Appellant went on to explain, that he delayed filing his occupational claim because he wanted to get a second opinion. The record shows that appellant stopped work on November 16, 1995 and returned to work on December 7, 1995. The employing establishment has controverted this claim.

In a March 8, 1996 letter, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish his claim and requested that he submit such evidence. The Office particularly requested that appellant submit a physician's reasoned opinions addressing the relationship of his claimed condition and specific employment factors. Appellant was allotted thirty days within which to submit the requested evidence.

Appellant did not respond to the Office's March 8, 1996 letter or submit evidence to support his claim.

By decision dated October 1, 1996, the Office denied appellant's claim for compensation benefits on the grounds that the evidence of record failed to support the fact of an injury in this case. In an accompanying memorandum, the Office noted that appellant was advised of the deficiency in his claim on March 8, 1996 and afforded an opportunity to provide supportive

evidence; however, no medical evidence of any kind was submitted to support the fact that appellant sustained an injury in the performance of duty.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>2</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>3</sup> The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>4</sup> must be one of reasonable medical certainty,<sup>5</sup> 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 claimant.<sup>6</sup>

In the present case, it is not disputed that appellant has a left heel spur, but the Office found that the evidence of record failed to support the fact of an injury since no medical evidence of any kind was submitted to support appellant's claim that he sustained a left heel spur in the performance of his duties. As the Office noted, appellant was advised of the deficiencies in his claim on March 8, 1996 and afforded the opportunity to provide supportive evidence; however, no medical evidence addressing whether any medical condition arose out of any

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>4</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>5</sup> *See Morris Scanlon*, 11 ECAB 384-85 (1960).

<sup>6</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

specific employment factors, has been submitted. Appellant merely stated that he sustained a left heel spur which was possibly caused by his federal employment.<sup>7</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his federal employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence. Thus, as appellant failed to provide rationalized medical evidence establishing that he sustained a left heel spur as a result of his federal employment, the Office properly denied appellant's claim for compensation.

The decision of the Office of Workers' Compensation Programs dated October 1, 1996 is affirmed.

Dated, Washington, D.C.  
December 17, 1998

Michael J. Walsh  
Chairman

George E. Rivers  
Member

A. Peter Kanjorski  
Alternate Member

---

<sup>7</sup> *Kathryn Haggerty*, 45 ECAB 383 (1994); *see also* 20 C.F.R. § 10.110(a).