

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT P. BOURGEOIS and U.S. POSTAL SERVICE,
POST OFFICE, Tampa, Fla.

*Docket No. 95-2558; Submitted on the Record;
Issued January 23, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant's bipolar disorder, mixed type, is causally related to his accepted employment injuries or authorized surgery.

On the prior appeal of this case,¹ the Board found that appellant had not met his burden of proof to establish that he sustained a psychiatric condition causally related to his accepted employment injuries or authorized surgery. The Board found that appellant had submitted the essentials of a *prima facie* claim and that the Office of Workers' Compensation Programs had discharged its responsibility in the development of the case by notifying appellant what additional medical evidence was needed to establish his claim. The facts of this case as set forth in the Board's July 1, 1994 decision are hereby incorporated by reference.

Through a request for reconsideration, appellant submitted an October 26, 1994 report from Dr. Ashit K. Vijapura, his attending psychiatrist. Dr. Vijapura stated that appellant "reportedly suffered a back injury on his job which resulted in both physical/psychiatric difficulties." Appellant was twice hospitalized as a consequence, he reported and was diagnosed with bipolar disorder, mixed type, as well as status post-cervical laminectomy and cervical fusion with secondary chronic pain. Dr. Vijapura continued:

"He was subsequently unable to perform satisfactorily on his job. Reportedly he had to ask other workers to lift things for him, including women. This was aggravated by pressure he experienced from work, particularly his supervisors, reinforcing feelings of uselessness and helplessness. In addition, other symptoms were developed and have persisted over the years: homicidal ideation; self-destructive behavior; fearfulness; sexual dysfunction; emotional lability; reduction in cognitive function and coping skills. Patient was eventually terminated.

¹ Docket No. 93-1155 (issued July 1, 1994).

“According to Werner-Beland this reaction is typical in people with grief responses to long-term illness and disability (Werner-Beland, 1985): ‘Although it is assumed that any illness produces some degree of personal disequilibrium often akin to the grief response, this type of response takes on even greater significance with those individuals who continue to live under less than ideal physical conditions for [an] extended period.’

“Beland also noted that this grief can become pathological and even more detrimental than that related to the loss of a loved one: ‘For the chronically ill or disabled individual there is no immediate end to the situation that produces the grief -- there is no foreseeable closure or resolution.’

“[Appellant’s] condition has not improved because of reasons aforementioned.”

In a decision dated July 7, 1995, the Office found that the evidence submitted in support of appellant’s request for reconsideration was insufficient to warrant modification of prior decisions.

The Board finds that the medical evidence is insufficient to establish that appellant’s bipolar disorder, mixed type, is causally related to his accepted employment injuries or authorized surgery.

It is an accepted principle of workers’ compensation law that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent, intervening cause attributable to the employee’s own intentional conduct.² A claimant seeking benefits under the Federal Employees’ Compensation Act³ has the burden of proof to establish the essential elements of his claim by the weight of the evidence,⁴ including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.⁵

Appellant attributes his diagnosed bipolar disorder, mixed type, at least in part to his employment injuries of September 19, 1987 and September 26, 1990 and his authorized surgery of July 7, 1988. He therefore has the burden of proof to establish that this condition is causally related to his employment injuries.

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between his current condition and the employment injury. The medical

² *John R. Knox*, 42 ECAB 193 (1990).

³ 5 U.S.C. §§ 8101-8193.

⁴ *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.⁶

Dr. Vijapura's October 26, 1994 report, while supportive of appellant's claim, is insufficient to discharge appellant's burden of proof. The Office properly found that his opinion lacked a complete and accurate history of the work injuries. Dr. Vijapura vaguely referred only to "a back injury" on his job. Dr. Vijapura did not relate more specifically what happened to appellant on September 19, 1987 and September 26, 1990 nor did he explain how his diagnosis of bipolar disorder, mixed type, was established. His October 26, 1994 report offers some rationale to support how appellant's reaction was typical in people with grief responses to long-term illnesses and disability but did not sufficiently support his opinion on causal relationship by addressing the facts specific to appellant's case.

To summarize, the October 26, 1994 report of Dr. Vijapura is of diminished probative value as a result of the deficiencies noted. For this reason, the Board finds that appellant has not discharged his burden of proof.

The July 7, 1995 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
January 23, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

Michael E. Groom
Alternate Member

⁶ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).