

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KEITH J. SIGLER and U.S. POSTAL SERVICE,
NEW MARKET STATION, Canton, Ohio

*Docket No. 95-2699; Submitted on the Record;
Issued September 23, 1998*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly found that appellant failed to meet his burden of proof to establish that his cervical condition was causally related to factors of his employment.

Appellant, a 40-year-old letter carrier, was picking up a tub of magazines on November 26, 1993 when he felt something pop in his neck. He filed a Form CA-2 claim for an occupational disease on November 29, 1993,¹ asserting that the cumulative effect of carrying sacks of mail on his left shoulder resulted in a cervical strain and a possible degenerative cervical disk.

In a letter dated January 13, 1994, the Office requested that appellant submit factual and medical evidence supporting his claim. The Office requested that appellant submit detailed findings describing his condition(s) since the time of the employment injury, copies of reports from a physician who treated his injury, and a physician's opinion supported by medical rationale regarding the causal relationship between his disability and his injury.

In response, appellant submitted a Form CA-20 completed by Dr. William L. Jeffrey, a Board-certified forensic pathologist, which was received by the Office on December 8, 1993, and also submitted additional clinic notes and reports from other physicians who treated him for his cervical condition. Dr. Jeffrey diagnosed a probable cervical herniated disk which he believed was caused or aggravated by appellant's employment activities. Dr. Jeffrey placed appellant on limited-work duty and placed restrictions on his physical activities.

¹ Appellant stated that he first began experiencing pain in the cervical area of his back on May 26, 1993, at which time he went off work until sometime in August 1993. Appellant, however, did not submit any time sheets or leave records to support this assertion.

In addition, appellant submitted results of a computerized tomography (CT) scan he underwent on December 3, 1993 which revealed a hemangioma, or benign tumor, in a small area of the right side at C6 and in a large area of the left C2 vertebral body. Appellant was diagnosed as having diffuse cervical degenerative disc disease with foraminal encroachment.

Appellant also submitted a January 25, 1994 report from Dr. Richard C. Zahn, a Board-certified neurosurgeon, who opined that the mail strap which comes over his left shoulder may aggravate his condition and recommended that appellant remain on light duty or seek another job within his employing establishment that would not require a downward pull on his left shoulder area.

By letter dated March 25, 1994, the Office informed appellant that he needed to submit additional medical evidence in support of his claim for occupational illness. The Office noted Dr. Zahn's January 25, 1994 report but stated that it failed to discuss whether appellant's work duties caused or contributed to his back condition.

In a decision dated April 28, 1994, the Office denied appellant's claim. Accompanying the decision was a memorandum from the claims examiner to the Director which stated that medical evidence sufficient to demonstrate that the claimed condition or disability was caused, precipitated, accelerated or aggravated by the injury had not been received, and that therefore appellant failed to demonstrate that the claimed condition was causally related to employment factors.

In a letter dated May 19, 1994, appellant requested an oral hearing before a representative of the Office.

Prior to the hearing, appellant submitted a September 30, 1994 medical report from Dr. Paul A. Steurer, a Board-certified orthopedic surgeon, who stated that as a letter carrier appellant was required to do a lot of mail carrying which "certainly" caused some soreness and tenderness in the left side of his dorsal spine, and that he would be much better off doing custodial work or a job in which he does not overuse his left upper extremity or aggravate his condition.²

At the hearing held on February 3, 1995 appellant was represented by an attorney. Appellant contended that the performance of his duties as a letter carrier had aggravated his cervical condition to the point where he required medical treatment. Appellant sought reimbursement for medical treatment required by the claimed condition plus approximately 900 hours of sick leave related to the claimed condition, which covered May through August 1993, November 1993 through January 1994 and two months during the summer 1994.³ Appellant testified that he had been transferred to lighter duty as a custodial worker and that since that time he had not experienced problems with his cervical condition.

² Appellant also submitted a January 13, 1995 medical report from Dr. Steurer.

³ Appellant resolved at the hearing to provide records documenting the exact amount of sick leave he accumulated due to his cervical condition, but apparently the Office never received these records.

Subsequent to the hearing, appellant submitted an additional medical report from Dr. Steurer dated March 10, 1995 in which he specifically stated that appellant suffered from pain in his dorsal spine which was caused and aggravated by chronic carrying of the mailbag.

In a decision finalized on May 5, 1995, an Office hearing representative reaffirmed the April 28, 1994 decision. The hearing representative found that there was no rationalized medical evidence in support of appellant's contention that his claimed cervical condition was caused or aggravated by employment factors. The Office rejected the March 10, 1995 report from Dr. Steurer, finding that it "suffered from factual deficiencies." The Office, noting that appellant had been examined by Dr. Steurer on only two occasions, September 30, 1994 and January 13, 1995, stated that Dr. Steurer's opinion lacked probative value because it was not based upon a current physical examination and because at the time of his most recent examination appellant had not carried the mail pouch for more than a year.

The Board finds that the hearing representative erred in determining there was no rationalized medical evidence supporting appellant's contention that his claimed cervical condition was caused or aggravated by employment factors.

An employee seeking benefits under the Federal Employees' Compensation Act⁴ has the burden of establishing that 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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.⁵ 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.⁶

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 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. The medical evidence required to establish causal relationship is usually rationalized medical 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, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *Victor J. Woodhams*, 41 ECAB 345 (1989).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷

Appellant has the burden of establishing by the weight of reliable, probative and substantial evidence that his condition was caused by his employment. As part of this burden he must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation.⁸

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 appellant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of appellant, 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 appellant.⁹

In the present case, appellant submitted a rationalized medical opinion from Dr. Steurer, dated March 10, 1995, which clearly indicated that appellant suffered from a dorsal strain and dorsal pain radiating into his left shoulder which was caused by factors of employment; *i.e.*, years of mail carrying, and which would be aggravated by continued employment as a mail carrier. Dr. Steurer, who noted that he had been taking care of appellant since September 1994, specifically stated:

“At that time he complained of dorsal spine pain going into his left shoulder. Certainly carrying his mailbag had caused soreness and tenderness on the left side of his dorsal spine. He was also found to have an underlying hemangioma of his dorsal spine. This is an unrelated condition. He is currently now working in a different capacity, as a custodian at the post office and is functioning well on that job. It is certainly my opinion that the dorsal strain is cause (sic) related to his work from the chronic carrying of the mailbag, indeed underlying, aggravating symptoms with regards to his dorsal spine. These symptoms did require a job change from a carrier into the custodial maintenance department.”

Thus Dr. Steurer sufficiently described appellant's symptoms in detail and how the employment factors would have been competent to cause the claimed cervical condition. The hearing representative therefore erred in finding that Dr. Steurer's opinion lacked probative value.

In addition, in an April 27, 1994 report, Dr. Mark C. Leeson, a Board certified orthopedic surgeon, noted that appellant had been referred to his office by Dr. Zahn “for evaluation of skeletal lesion at the level of the pedicle and foramen of T1, T2 on the left side. A history of a

⁷ *Id.*

⁸ *Arlonia B. Taylor*, 44 ECAB 591, 595 (1993).

⁹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

general achy pain in this region which has been present now for some time. It is ... aggravated particularly with heavy-duty activities, particularly with carrying mail on this shoulder.”

In the instant case, therefore, the record contains medical reports from Drs. Steurer and Leeson pertaining to the claimed condition which contain rationalized medical opinions relating the cause of the claimed condition to factors of employment. These reports indicate that appellant is entitled to reimbursement for medical treatment and sick leave related to his claimed condition. Therefore, the hearing representative’s decision of May 5, 1995 is reversed, and the case is remanded to the Office to determine the periods in which appellant was disabled based on his employment-related cervical condition and for reimbursement of appropriate medical expenses.

The Office’s decision of May 5, 1995 is therefore reversed and the case is remanded for further action consistent with this decision of the Board.

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

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member