

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHARLES W. FYE and DEPARTMENT OF VETERANS AFFAIRS,
MEDICAL CENTER, Murfreesboro, Tenn.

*Docket No. 97-2114; Submitted on the Record;
Issued April 15, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant met his burden of proof to establish that he sustained disability during the period March 4 to June 15, 1996 due to the accepted employment injury, intermittent temporary aggravation of his chronic obstructive pulmonary disease.

The Board finds that appellant did not meet his burden of proof to establish that he sustained disability during the period March 4 to June 15, 1996 due to the accepted employment injury, intermittent temporary aggravation of his chronic obstructive pulmonary disease.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing 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.² The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury 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 compensable 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 nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.³

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained intermittent temporary aggravation of his chronic obstructive pulmonary disease; appellant worked as a housekeeping aid and was exposed to fumes from various cleaning fluids. Appellant stopped work on January 2, 1996 and used leave for a period; he alleged that he sustained disability due to the accepted employment injury during the period March 4 to June 15, 1996. By decision dated July 5, 1996, the Board denied appellant's claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained disability during the period March 4 to June 15, 1996 due to the accepted employment injury and, by decision dated May 13, 1997, the Office denied modification of its July 5, 1996 decision.

Appellant received treatment for his pulmonary condition from Dr. William H. Noah, a Board-certified internist. In a report dated June 28, 1996, Dr. Noah stated that appellant's findings for forced expiratory volume per second worsened in January 1996 and remained in this worsened state when he was retested in June 1996 despite the fact that he had participated in a rehabilitation program. Dr. Noah noted:

"I would have to say that this change in his pulmonary function seems permanent at this point. As to the cause of it, I cannot be sure, but there is obviously change in his function from June 20, 1995 to the next testing of January 1996. This progression is greater than would be expected for emphysema alone, and there is obviously some other factor which triggered this worsening. [Appellant] and his wife seem to believe that this other factor is his exposure to certain chemicals while working at the [employing establishment]."

Dr. Noah indicated that appellant's pulmonary impairment was mild and noted that he could perform some type of work. In a letter dated September 4, 1996, Dr. Noah stated, "[Appellant] may return to work as long as he is given duties with light exertion and he is not exposed to any chemicals or fumes that would aggravate his lung disorder."

These reports of Dr. Noah do not establish appellant's claim for disability during the period March 4 to June 15, 1996 due to the accepted employment injury, intermittent temporary aggravation of his chronic obstructive pulmonary disease, in that they do not contain a clear opinion that appellant's disability for this period was related to his accepted employment injury.⁴ Dr. Noah indicated that appellant had exhibited a worsening of his pulmonary condition but noted that the cause of such worsening was uncertain; his opinion was also unclear regarding the

⁴ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

extent of appellant's disability.⁵ Appellant's claim was accepted for a temporary, rather than permanent, aggravation of his preexisting chronic obstructive pulmonary disease. The record also contains a January 8, 1997 document in which appellant noted his worsening condition in January 1996 and posed the following question to Dr. Noah: "Is it not only possible, but probable that this phenomenon could have been caused from inhaling the fumes of the cleaning agent 'Wexide' that he uses at work?" Dr. Noah responded by checking a "yes" box and initialing the document. This document is of limited probative value on the relevant issue of the present case in that it does not provide a clear opinion on the extent of appellant's disability and it does not comment on the particular period of disability claimed by appellant, April 4 to June 15, 1996. Moreover, it does not contain adequate medical rationale in support of its conclusion on causal relationship.⁶ Such medical rationale is especially necessary in the present case in that appellant claimed a period of employment-related disability that began months after he was last exposed to chemicals in the workplace.

The decisions of the Office of Workers' Compensation Programs dated May 13, 1997 and July 5, 1996 are affirmed.

Dated, Washington, D.C.
April 15, 1999

George E. Rivers
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

⁵ See *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962); *James P. Reed*, 9 ECAB 193, 195 (1956) (finding that an opinion which is equivocal or speculative is of limited probative value regarding the issue of causal relationship).

⁶ See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).