

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GEORGE E. WIGGETT and DEPARTMENT OF HEALTH & HUMAN  
SERVICES, CENTER FOR DISEASE CONTROL,  
Atlanta, GA

*Docket No. 97-1906; Submitted on the Record;  
Issued August 24, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant sustained an injury on October 11, 1996 in the performance of duty causally related to factors of his employment.

On February 27, 1997 appellant, then a 65-year-old laboratory technician, filed a claim for compensation benefits alleging that he sustained an inguinal hernia which he attributed to repeated lifting of heavy objects in his job.

In a report dated February 24, 1997, Dr. James K. Wise, a Board-certified surgeon, provided a medical history and findings on examination and diagnosed a large left inguinal hernia. He related that appellant performed a lot of lifting on the job and believed that the injury had occurred because of his work.

In a form report dated March 4, 1997, Dr. Jeffrey N. Kauffman, a Board-certified family practitioner, diagnosed a left inguinal hernia and, in answer to a form question as to whether the condition was caused or aggravated by his employment activity, he checked the block marked "yes" and wrote "His job duties, if [they] involve heavy lifting or straining, could contribute to this condition."

By decision dated May 12, 1997,<sup>1</sup> the Office of Workers' Compensation Programs denied appellant's claim for compensation benefits on the grounds that the evidence of record failed to

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<sup>1</sup> On April 3, 1997 the Office denied continuation of pay benefits as the notice of injury was untimely filed.

establish that he had sustained an injury on October 11, 1996 causally related to factors of his employment.<sup>2</sup>

The Board finds that appellant has failed to meet his burden of proof to establish that he sustained an injury in the performance of duty causally related to factors of his employment.

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.<sup>3</sup> The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.<sup>4</sup> 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>5</sup> must be one of reasonable medical certainty<sup>6</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>7</sup>

In this case, appellant alleged that he sustained an inguinal hernia which he attributed to the repeated heavy lifting of objects in his job. He submitted medical evidence in support of his claim.

In a report dated February 24, 1997, Dr. Wise provided a medical history and findings on examination and diagnosed a large left inguinal hernia. He related that appellant performed a lot of lifting on the job and believed that the injury had occurred because of his work. However, Dr. Wise merely related appellant's belief that the condition was causally related to his

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<sup>2</sup> Subsequent to issuance of the Office's May 12, 1997 decision, appellant submitted additional evidence. As this evidence was not considered by the Office at the time it issued its May 12, 1997 decision the Board had no jurisdiction to consider the evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).

<sup>3</sup> *See Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>4</sup> The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may not be necessary; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

<sup>5</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>6</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>7</sup> *See James D. Carter*, 43 ECAB 113, 123 (1991); *George A. Ross*, 43 ECAB 346, 351 (1991); *William E. Enright*, 31 ECAB 426, 430 (1980).

employment. He did not provide his own rationalized medical opinion as to the cause of the hernia. Therefore, this report is not sufficient to establish that appellant's hernia was causally related to factors of his employment.

In a form report dated March 4, 1997, Dr. Kauffman diagnosed a left inguinal hernia and, in answer to the form question as to whether the condition was caused or aggravated by his employment activity, he checked the block marked "yes" and wrote "His job duties, if [they] involve heavy lifting or straining, could contribute to this condition." However, his opinion as to causal relationship is speculative in that he stated that appellant's job duties "could" cause a hernia. Dr. Kauffman also does not appear to have a complete and accurate understanding of appellant's job duties as he indicated that "if" his job required heavy lifting or straining, such factors could cause a hernia. His opinion as to causal relationship is speculative, is not based upon a complete and accurate factual background and is insufficiently rationalized. Therefore it is not sufficient to discharge appellant's burden of proof.

The May 12 and April 3, 1997 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.  
August 24, 1999

Michael J. Walsh  
Chairman

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member