U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CRISTINA M. VELASCO and U.S. POSTAL SERVICE, POST OFFICE, Corpus Christi, TX

Docket No. 98-816; Submitted on the Record;
Issued August 13, 1999

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS, BRADLEY T. KNOTT

The issue is whether appellant has established that she sustained a subluxation as a result of her October 23, 1996 employment injury entitling her to chiropractic treatment for the effects of her October 23, 1996 employment injury.

On October 23, 1996 appellant, then a 52-year-old flat sorter machine distribution clerk, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that she injured her lower back while lifting and carrying sleeves from the top of the postcon to the bottom of the postcon.[1] Appellant returned to light-duty work on November 1, 1996. The employing establishment contested the claim.

Appellant sought treatment at Memorial Hospital emergency room on the date of injury and was treated by Dr. Bruce Addison. In a duty status report dated October 23, 1996, Dr. Addison diagnosed a lumbosacral strain due to appellant's lifting and carrying sleeves of mail.

Dr. Ricardo Martinez, a chiropractor, in duty status reports dated October 25 and November 5, 1996 and return to work slips dated October 23 and November 1, 1996 diagnosed a lumbar strain. In a report dated November 11, 1996, Dr. Martinez diagnosed a lumbar strain and subluxation of L3-4 and indicated that x-rays had been taken at Memorial Hospital.

By decision dated December 17, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the basis that the evidence failed to establish that appellant's condition of lumbosacral strain and subluxation at L3-4 was casually related to her October 23, 1996 employment injury.

[1] This was assigned claim number 16-0287200. The record contains a decision dated November 22, 1996 denying benefits for claim number 16-0286058 for an alleged injury on September 27, 1996.

In a letter dated December 30, 1996, appellant requested an oral hearing before an Office hearing representative. In a decision dated October 6, 1997, the hearing representative vacated the Office's December 17, 1996 decision and remanded the claim to the Office to accept a lumbar strain. The hearing representative instructed the Office on remand to inform appellant as to the requirements necessary to consider a chiropractor a physician under the Federal Employees' Compensation Act and to allow her time to submit evidence of a subluxation as demonstrated by x-ray to exist.

On October 23, 1997 the Office, in response to the hearing representative's decision, notified appellant that a chiropractor can only be considered a physician for the purpose of the Act if a subluxation as demonstrated by x-ray was submitted and allowed her 30 days to submit additional evidence.

Appellant did not submit any additional evidence.

In a decision dated November 28, 1997, the Office informed appellant that as her chiropractor had not diagnosed a subluxation of the spine as demonstrated by x-ray, he was not a physician for the purpose of the Act, and appellant was not entitled to reimbursement for chiropractic services.

The Board finds that appellant has not established that she sustained a subluxation as a result of her October 23, 1996 employment injury entitling her to chiropractic treatment for the effects of her October 23, 1996 employment injury.

In the present case, appellant has alleged that she sustained a subluxation causally related to factors of her federal employment. The Office accepted appellant's claim for a lumbar strain and remanded for further information from appellant's chiropractor. As part of her burden of proof, she must submit rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the injury claimed and her federal employment.[2] The mere fact that a condition manifests itself or is worsened during a period of employment does not raise an inference of causal relationship between the two.[3]

In support of her claim, appellant has submitted reports from Dr. Martinez, a chiropractor. Section 8101(2) of the Act, chiropractors are recognized as physicians "only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist."[4] The only report diagnosing a subluxation based on x-rays is a November 11, 1996 report, which provides a history and results on examination and includes subluxation of L3-4 as a diagnosis. Although Dr. Martinez notes in his history the employment incident on October 23, 1996 identified by appellant, he does not offer an opinion that the subluxation of L3-4 was causally related to the

[2] *Kathryn Haggerty*, 45 ECAB 383 (1994).

[3] *William Nimitz*, 30 ECAB 567 (1979).

[4] 5 U.S.C. § 8101(2); *see Marjorie S. Geer*, 39 ECAB 1099, 1101-02 (1988).

employment incident, with supporting rationale.[5] The report is therefore not sufficient to establish a subluxation causally related to appellant's federal employment.

The decision of the Office of Workers' Compensation Programs dated November 28, 1997 is hereby affirmed.

Dated, Washington, D.C.
August 13, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

[5] The Board has held that medical evidence must be in the form of a reasoned opinion by a qualified physician based on a complete and accurate factual and medical history. *Robert J. Krstyen*, 44 ECAB 227, 229 (1992).