

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of DORIS HOCHSCHILD and U.S. POSTAL SERVICE,  
POST OFFICE, Cleveland, OH

*Docket No. 99-1781; Submitted on the Record;  
Issued August 22, 2000*

---

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
VALERIE D. EVANS-HARRELL

The issue is whether appellant met her burden of proof in establishing that she sustained a hernia in the performance of duty causally related to factors of her federal employment.

On January 1, 1999 appellant, then a 50-year-old expeditor/dock clerk, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that on December 21, 1998 she became aware of a hernia. Appellant did not stop work.

Along with her claim, appellant provided an accident report indicating that she was treated at Kaiser Permanente on December 21, 1998. The report described a hernia which appellant believed was job related over a course of time and that appellant did not have the hernia on her last appointment which was six months ago.

Appellant also provided a January 8, 1999 disability slip from Dr. A. Narra, Board-certified in geriatric and internal medicine, indicating appellant was diagnosed with a right inguinal hernia and was scheduled for surgery on January 27, 1999. Dr. Narra also advised that appellant was not to lift any objects over 10 pounds.

In a February 1, 1999 letter, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish her claim and requested that she submit such. The Office particularly requested that appellant submit a physician's reasoned opinion addressing the relationship of her claimed condition and specific employment factors. Appellant was allotted 30 days to submit the requested evidence.

In an undated letter, which was received by the Office on February 16, 1999, appellant stated that she worked as an expeditor for one year. Additionally, appellant indicated that during the month of December 1998, she performed an amount of work that exceeded her usual capacity due to a shortage of staffing. Appellant indicated that on December 21, 1998 she noticed the groin on her left side swell and a bubble. She stated that she went to her general practitioner and

was diagnosed with a hernia and an operation was performed on February 5, 1999. Appellant stated that Dr. Barbara Okamoto, a surgeon, indicated it was one she had from birth, although appellant indicated that she had no knowledge of a hernia prior to this time.

In a March 8, 1999 decision, the Office denied compensation on the grounds that the evidence of record failed to demonstrate a causal relationship between appellant's diagnosed condition and factors of her employment.

The Board finds that appellant failed to meet her burden of proof in establishing that she sustained a hernia in the performance of duty causally related to factors of her employment.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of the Act and 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 or specific condition for which compensation is claimed is causally related to the employment injury.<sup>2</sup> These are the essential elements of each and every case regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

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 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

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

<sup>3</sup> *Daniel J. Overfield*, 42 ECAB 718 (1991).

<sup>4</sup> The Board has held that in certain cases, where the causal connection is 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).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>7</sup>

In the instant case, appellant alleged that she sustained a hernia due to her employment and she identified work factors that she felt caused her condition. However, the medical evidence is insufficient to establish that her employment caused or aggravated her hernia condition.

In a January 8, 1999 disability slip from Dr. Narra, appellant was diagnosed with a right inguinal hernia and was scheduled for surgery on January 27, 1999. Dr. Narra did not address whether appellant's employment caused or aggravated appellant's condition.

In the present case, the medical evidence is insufficient to establish that appellant sustained an employment-related injury because it does not discuss the cause of appellant's condition. The Office advised appellant of the deficiency in the medical evidence but appellant failed to submit rationalized medical opinion evidence addressing the relevant issues.<sup>8</sup>

An award of compensation may not be based upon surmise, conjecture or speculation or upon appellant's belief that there is a causal relationship between her condition and her employment.<sup>9</sup> To establish causal relationship, appellant must submit a physician's report, in which the physician reviews the factors of federal employment identified by appellant as causing her condition and, taking these factors into consideration as well as findings upon examination of appellant and appellant's medical history, state whether these employment factors caused or aggravated appellant's diagnosed condition.<sup>10</sup> Appellant failed to submit such evidence and, therefore, failed to discharge her burden of proof.

---

<sup>6</sup> See *Morris Scanlon*, 11 ECAB 384-85 (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).

<sup>8</sup> Following the issuance of the Office's, March 8, 1999 decision and on appeal, appellant submitted additional evidence. However, the Board may not consider such evidence for the first time on appeal; see 20 C.F.R. § 501.2(c).

<sup>9</sup> *William S. Wright*, 45 ECAB 498 (1993).

<sup>10</sup> *Id.*

The decision of the Office of Workers' Compensation Programs dated March 8, 1999 is affirmed.

Dated, Washington, D.C.  
August 22, 2000

David S. Gerson  
Member

Willie T.C. Thomas  
Member

Valerie D. Evans-Harrell  
Alternate Member