

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PAUL R. JONES and U.S. POSTAL SERVICE,  
POST OFFICE, Washington, DC

*Docket No. 00-735; Submitted on the Record;  
Issued January 23, 2001*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a recurrence of disability on September 28, 1995 as a result of his accepted injury.

This case has previously been before the Board.<sup>1</sup> Appellant sustained injury on April 21, 1987, accepted by the Office of Workers' Compensation Programs for a lumbosacral strain. On September 28, 1995 appellant filed a claim for a recurrence of disability which was denied by the Office in a November 18, 1995 decision. In a decision dated April 30, 1997, a hearing representative affirmed the denial of appellant's claim for a recurrence of disability. By decision dated June 17, 1999, the Board set aside the April 30, 1997 Office decision and remanded the case to the Office to prepare a statement of accepted facts and request that Dr. Daniel R. Ignacio, appellant's attending physician, provide an opinion on the relationship between appellant's condition and the accepted employment injury. The factual background of the case, as set forth in the Board's June 17, 1999 decision, is hereby incorporated by reference.

On August 19, 1999 the Office wrote to Dr. Ignacio and requested that he provide a reasoned medical opinion on the relationship between appellant's condition and the accepted employment injury. The Office enclosed a statement of accepted facts for his review. The Office also sent appellant a copy of its August 19, 1999 letter to Dr. Ignacio. There was no response from Dr. Ignacio.

By decision dated October 20, 1999, the Office denied appellant's claim on the grounds that no medical evidence was submitted pursuant to the Board's June 17, 1999 remand order, and thus appellant failed to establish that he sustained a recurrence of disability causally related to his September 28, 1995 work-related injury.

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<sup>1</sup> Docket No. 97-2235 (issued June 17, 1999).

The Board has reviewed the record and finds that appellant has not established a recurrence of disability causally related to his accepted injury.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> 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.<sup>3</sup> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</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) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition, for which compensation is claimed; 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>5</sup> Neither the fact that the condition became manifest during a period of federal employment, nor the belief of appellant that the condition was caused or aggravated by his federal employment, is sufficient to establish causal relation.<sup>6</sup>

It is, as noted above, appellant has the burden of proof to submit medical evidence on causal relationship supported by medical rationale and based on a complete factual and medical background. Since Dr. Ignacio failed to respond to the Office's request of August 19, 1999, and since appellant has not submitted any evidence to the Office since August 19, 1999, the Board finds that appellant has not met his burden of proof and the Office properly denied his claim.<sup>7</sup>

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *David M. Ibarra*, 48 ECAB 218 (1996).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>6</sup> *Manuel Garcia*, 37 ECAB 767 (1986).

<sup>7</sup> The Board notes that Dr. Ignacio and appellant had two months from the date of the Office's letter to reply to its request for medical evidence.

The October 20, 1999 decision of the Office of Workers' Compensation Programs is affirmed.<sup>8</sup>

Dated, Washington, DC  
January 23, 2001

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>8</sup> Appellant submitted additional medical evidence after the Office's October 20, 1999 decision. The Board, however, may not review evidence for the first time on appeal that was not before the Office at the time it issued its final decision; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting his evidence along with a request for reconsideration to the Office.