

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES R. GORDON and DEPARTMENT OF AGRICULTURE,
APHIS PPQ, MEDFLY PROJECT, Tampa, FL

*Docket No. 00-1256; Submitted on the Record;
Issued March 12, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained an injury in the course of employment.

On April 14, 1999 appellant, then a 50-year-old insect production worker, filed an occupational disease claim alleging that the bending, pulling and lifting required to perform his job caused lower back pain, which he had first become aware of on July 4, 1969. Appellant stated that on March 15, 1999 he first realized that such pain could be related to his employment. By letter dated April 26, 1999, the Office of Workers' Compensation Programs requested that appellant furnish further information pertaining to his injury. By a second letter of that same date, the Office requested that the employing establishment furnish further information pertaining to appellant's job duties and precautions taken to minimize the effects of his job activities.

In support of his claim, appellant submitted a report dated May 6, 1999 in which Dr. Robert S. Zucker, a Veterans Administration physician, opined that the cause of appellant's condition was the performance of his job duties. Dr. Zucker based his opinion on appellant's history, physical examination and the acuity of his condition.

By decision dated June 25, 1999, the Office denied appellant's claim on the grounds that the evidence presented was insufficient to establish that he sustained an employment-related injury.

By letter dated September 9, 1999, appellant requested reconsideration of the prior decision and submitted additional medical evidence from the Veterans Administration including reports dated April 6 and 13, 1999 in which Dr. Kenneth Sainz diagnosed low back pain; results of an April 13, 1999 x-ray of the lumbosacral spine that revealed moderate disc space narrowing between L2 and L5, and marked narrowing in the L5-S1 area; progress notes dated April 23, 1999 in which Dr. Donna A. Goldman diagnosed low back pain; results of a May 3, 1999

magnetic resonance imaging (MRI) of the lumbosacral spine which revealed degenerative findings at L5-S1 and L4-5 with neural foraminal narrowing; progress notes dated April 22 and 29, May 6, 7 and 10 and June 8, 1999 from Drs. Goldman and Zucker; results of an aortic sonogram spine dated May 17, 1999; and physical therapy notes dated June 17, 1999.

By decision dated October 8, 1999, the Office found that the evidence submitted was insufficient to warrant modification of the prior decision.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an employment-related injury.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim² including the fact that the individual is an "employee of the United States" within the meaning of the Act,³ that the claim was timely filed within the applicable time limitation period of the Act,⁴ 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.⁵ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

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 the 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.

Causal relationship is a medical issue⁷ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence that 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, must be one of reasonable medical certainty and must be supported by medical

¹ 5 U.S.C. §§ 8101-8193.

² See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.115 (1999).

³ See *James A. Lynch*, 32 ECAB 2116 (1980); see also 5 U.S.C. § 8101(1).

⁴ 5 U.S.C. § 8122.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *Delores C. Ellyett*, 41 ECAB 922 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *Mary J. Briggs*, 37 ECAB 578 (1986).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁸ Moreover, the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁹

In this case, appellant has submitted medical evidence establishing the presence of a back condition. However, he has not submitted rationalized medical evidence establishing that his injury is causally related to his employment. The evidence submitted indicates that appellant's injury is degenerative in nature and that he has had back problems for approximately 30 years. An MRI taken of the lumbosacral spine on May 3, 1999 revealed degenerative findings at L5-S1 and L4-5. Dr. Zucker, in his May 6, 1999 report, opined that appellant's injury was caused by his performance of the activities required by his federal employment. Dr. Zucker, however, did not explain the specific job duties that contributed to appellant's condition. Medical reports not containing rationale on causal relationships are of little probative value.¹⁰ Appellant, therefore, has not met his burden of proof to establish that he sustained an employment-related injury.

The decisions of the Office of Workers' Compensation Programs dated October 8 and June 25, 1999 are hereby affirmed.

Dated, Washington, DC
March 12, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

⁸ *Joe L. Wilkerson*, 47 ECAB 604 (1996); *Alberta S. Williamson*, 47 ECAB 569 (1996); *Kurt R. Ellis*, 47 ECAB 505 (1996); *Thomas L. Hogan*, 47 ECAB 323 (1996); *Charles E. Burke*, 47 ECAB 185 (1995); *Victor J. Woodhams*, *supra* note 6.

⁹ *Minnie L. Bryson*, 44 ECAB 713 (1995); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

¹⁰ *See Carolyn F. Allen*, 47 ECAB 240 (1995).