

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EVALANI N. GONZALES and U.S. POSTAL SERVICE,
LONG BEACH P & DC, Long Beach, CA

*Docket No. 02-1136; Submitted on the Record;
Issued October 2, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
WILLIE T.C. THOMAS

The issue is whether appellant met her burden of proof to establish that she sustained an injury causally related to factors of employment.

On January 16, 2001 appellant, then a 35-year-old flat sorter machine clerk, filed an occupational disease claim. In an accompanying statement, she indicated that beginning in March 2000, she sustained pain in the back of her head and neck, for which she underwent medical treatment and physical therapy and that when the pain continued, appellant decided to file a claim. In support of her claim, she submitted medical evidence including duty status reports dated January 16 and February 13, 2001, in which Dr. Charles D. Turek, a Board-certified orthopedic surgeon, diagnosed cervical strain due to repetitive motion and provided restrictions to her physical activity. The employing establishment controverted the claim and submitted evidence regarding appellant's use of leave, personnel actions and grievances filed by appellant.

By letter dated March 28, 2001, the Office of Workers' Compensation Programs informed appellant that the evidence received to date was insufficient to establish her claim and informed her of the type of evidence needed. In response, appellant submitted a duty status report dated March 23, 2001, in which Dr. Turek reiterated his previous findings and conclusions. In a decision dated May 2, 2001, the Office denied the claim on the grounds that appellant failed to submit comprehensive medical evidence, which included a rationalized medical opinion regarding how her condition related to specific employment factors.

The Board finds that appellant failed to meet her burden of proof to establish that she sustained an employment-related condition.

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

Causal relationship is a medical issue,⁷ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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 rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁸ Neither 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

The relevant medical evidence in the instant case includes¹⁰ an employing establishment form dated April 24, 2000, in which Dr. Turek, a Board-certified orthopedic surgeon, diagnosed cervical strain and advised that appellant could return to light duty on July 27, 2000. In reports

¹ 5 U.S.C. §§ 8101-8193.

² See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.110.

³ See *James A. Lynch*, 32 ECAB 216 (1980); see also 5 U.S.C. § 8101(1).

⁴ 5 U.S.C. § 8122.

⁵ See *Melinda C. Epperly*, 45 ECAB 196 (1993).

⁶ See *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

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

⁸ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, *supra* note 6.

⁹ *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

¹⁰ The evidence also includes an employing establishment form report dated April 18, 2000, in which Dr. Meyer, a chiropractor, noted that he began treating appellant on March 27, 2000 and diagnosed cervical spine muscle spasm and regional dysfunction. Section 8101(2) of the Act provides that the term "physician" includes chiropractors 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. *Sheila A. Johnson*, 46 ECAB 323 (1994). Such has not been shown in the instant case. The record also contains a report dated May 5, 2000. As the signature on the report is illegible, the Board cannot ascertain if it is the report of a physician as defined in the Act. See generally *Gary J. Watling*, 52 ECAB ____ (Docket No. 00-634, issued March 1, 2001).

dated July 27 and October 1, 2000 and January 17, 2001, he advised that appellant could perform light duty and provided restrictions to her physical activity. Dr. Turek also provided restrictions to appellant's activity in duty status reports dated January 16, February 13 and March 23, 2001, in which he diagnosed cervical strain caused by "prolonged repetitive use."

The Board finds that appellant did not establish that she sustained an employment-related injury as the record does not contain rationalized medical evidence that relates her neck condition to employment factors. While Dr. Turek advised that appellant's cervical strain was caused by "prolonged repetitive use," the Board finds that without further explanation, his opinion has little probative value and is insufficient to establish causal relationship.¹¹ The employing establishment indicated that appellant had been on light duty since April 2000 and a grievance submitted by appellant indicates that she was in a "substantial" car accident. The Board thus finds that, as appellant did not provide the necessary medical evidence to establish that employment factors caused her neck condition, the Office properly denied her claim.

The May 2, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 2, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

¹¹ *Ruth S. Johnson*, 46 ECAB 237 (1994).