

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SIUPOLU T. TAUAI and DEPARTMENT OF THE ARMY,  
BARBER'S POINT COMMISSARY, Kapolei, HI

*Docket No. 02-1341; Submitted on the Record;  
Issued April 8, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
A. PETER KANJORSKI

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

On March 28, 2001 appellant, then a 42-year-old sales store checker, filed an occupational disease claim alleging that scanning at the register and pulling heavy items caused a stiff and painful right side from the neck down to the hand. She did not stop work. By letter dated February 13, 2002, the Office of Workers' Compensation Programs informed appellant of the type of evidence needed to support her claim and in support she submitted medical reports from Dr. W. Carl Gallegos, a chiropractic physician, Dr. Edward A. Alquero, a family practitioner, and Dr. Jeffrey Lee, a Board-certified orthopedic surgeon. By decision dated March 27, 2002, the Office denied the claim, finding that appellant failed to submit a statement in which she fully described the employment activities that she felt contributed to her condition and did not submit a comprehensive medical report that included a physician's opinion regarding the cause of her condition. The instant appeal follows.

The Board finds that appellant failed to meet her burden of proof to establish that she sustained an employment injury causally related to factors of 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<sup>2</sup> including the fact that the individual is an "employee of the United States" within the meaning of the Act,<sup>3</sup> that the claim was timely filed within the applicable time limitation period of the Act,<sup>4</sup> that an injury was

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

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

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

<sup>4</sup> 5 U.S.C. § 8122.

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>5</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>6</sup>

Causal relationship is a medical issue<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

The medical evidence in the instant case includes, a number of reports from appellant's treating chiropractor, Dr. Gallegos. Section 8101(2) of the Federal Employees' Compensation Act,<sup>10</sup> however, 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.<sup>11</sup> The medical reports submitted by Dr. Gallegos do not contain such x-ray evidence.

Dr. Alquero, appellant's treating family practitioner, submitted reports dating from August 27, 2001 to January 18, 2002. While he diagnosed cervical strain, herniated disc and carpal tunnel syndrome and advised that she should work light duty with lifting restrictions, in none of his reports did he discuss the cause of appellant's condition. Likewise, Dr. Lee, a Board-certified orthopedic surgeon, who provided reports, dated October 16, 2001 and January 22, 2002 and diagnosed bilateral carpal tunnel syndrome, did not discuss the cause of appellant's condition. Appellant further submitted a December 15, 2001 report of magnetic resonance imaging of the cervical spine that demonstrated a disc protrusion at C5-6. An electromyogram and nerve conduction velocity report dated November 13, 2001 revealed right carpal tunnel syndrome and right C6 radiculopathy. These reports, however, did not discuss the cause of appellant's condition.

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<sup>5</sup> See *Melinda C. Epperly*, 45 ECAB 196 (1993).

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

<sup>7</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

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

<sup>9</sup> *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (182).

<sup>10</sup> 5 U.S.C. § 8101(2).

<sup>11</sup> *Sheila A. Johnson*, 46 ECAB 323 (1994).

The Board thus finds that, as appellant did not provide the necessary medical evidence to establish that employment factors caused either her neck condition or carpal tunnel syndrome, she did not establish that she sustained an employment-related injury.<sup>12</sup> The Office, therefore, properly denied her claim.<sup>13</sup>

The decision of the Office of Workers' Compensation Programs dated March 27, 2002 is hereby affirmed.

Dated, Washington, DC  
April 8, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>12</sup> *Gary L. Fowler, supra* note 8.

<sup>13</sup> The Board notes that appellant submitted medical evidence to the Office subsequent to the March 27, 2002 decision. The Board cannot consider this evidence, however, as its review of the case is limited to the evidence of record which was before the Office at the time of the March 27, 2002 decision. 20 C.F.R. § 501.2(c).