

**United States Department of Labor  
Employees' Compensation Appeals Board**

---

**MATTHEW RADOVICH, Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Huntington Park, CA, Employer**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 04-455  
Issued: June 25, 2004**

*Appearances:*  
*Coleen Street*, for the appellant  
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Member  
DAVID S. GERSON, Alternate Member  
WILLIE T.C. THOMAS, Alternate Member

**JURISDICTION**

Appellant filed an appeal to the Board on December 8, 2003. He appealed from a May 29, 2003 merit decision by the Office of Workers' Compensation Programs which denied his request for modification of the Office's prior decision. As the merit decision of the Office was issued within one year prior to appellant's appeal, the Board has merit jurisdiction in this case pursuant to 20 C.F.R. §§ 501.2(c) and 501.3.

**ISSUE**

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability for the intermittent periods June 10, 1999 to January 19, 2001 due to his accepted employment-related condition of post-thrombotic syndrome.

## **FACTUAL HISTORY**

Appellant, a 39-year-old postal clerk, filed a claim for deep vein thrombosis with secondary conditions of an open ulcer and recurrent cellulitis. In an accompanying statement, appellant indicated that he was awakened on December 27, 1995 with a painful ache in his right leg. He was admitted to the hospital and a Doppler test showed he had a major occlusion in a deep vein that extended from the back of the right knee to his groin. He stated that his personal physician believed that long periods of standing was a contributing factor. Appellant reported that he was in charge of a small station with two coworkers. He stood at the window counter for up to six hours, five days a week. He would walk to get certified or postage due letters. He also lifted boxes weighing up to 70 pounds and helped the carrier with unloading the truck.

Appellant returned to work on April 30, 1996. His supervisor indicated no light-duty work was available so he asked his personal physician to release him to work without restriction. He returned to the duties he performed previously. However, his right leg would swell up even though he was wearing support stockings. After a few months he developed a secondary condition of an open ulcer with recurrent cellulitis. He was hospitalized on September 4, 1996 and treated for the condition. He returned to work on September 30, 1996 and resumed his regular duties. Appellant's right leg became reinfected. He stopped working on January 27, 1997. He contended that the requirement to perform his duties while standing had aggravated his deep vein thrombosis and recurrent ulcer and cellulitis condition.

In a May 1, 1997 report, Dr. Alan A. Frischer, a Board-certified internist, stated that appellant had no apparent preexisting conditions prior to developing deep vein thrombosis. He cited two possible factors that caused the thrombosis, smoking and prolonged standing. Dr. Frischer concluded that there was a clear relationship between standing excessively on the job and aggravation of deep vein thrombosis. In a May 7, 1997 report, Dr. Frischer indicated that he had treated appellant for deep vein thrombosis with complications of cellulitis and ulceration of the leg. He stated that appellant had had the condition for two and a half years but it was finally clearing and appellant would return to work on May 15, 1997.

In a June 20, 1997 report, Dr. John Hollingsworth, a specialist in emergency medicine, noted that appellant contended that standing on his feet on the job contributed to or aggravated his right leg condition. He stated that deep vein thrombosis was aggravated by inactivity. Dr. Hollingsworth commented that exercise of the legs in the course of appellant's duties would be beneficial, not detrimental to him. He concluded that the factors of appellant's duties would not be factors in the causation of the deep vein thrombosis.

In a November 17, 1997 decision, the Office rejected appellant's claim for compensation on the grounds that the evidence of record failed to establish that appellant's claimed condition of deep vein thrombosis with secondary open ulcer, recurrent cellulitis and venous insufficiency arose out of the course of the performance of his duties as alleged.

Appellant requested reconsideration and submitted new medical evidence. After reviewing the evidence, the Office referred appellant to Dr. Robert Foran, a Board-certified surgeon specializing in vascular surgery. In a June 21, 1998 report, Dr. Foran stated that appellant's total disability from the deep vein thrombosis was not related to his employment

duties. He concluded, however, that the deep vein thrombosis damaged veins throughout his right leg, leaving him with post-thrombotic syndrome. Dr. Foran indicated that appellant's work aggravated the post-thrombotic syndrome which caused the cellulitis and leg ulcers. The Office accepted appellant's claim for aggravation of post-thrombotic syndrome and paid compensation for periods of total disability from August 16, 1996 to August 27, 1997, and partial disability for the period May 15 to July 31, 1997 and the period after August 27, 1997.

On May 30, 2001 appellant filed a claim for recurrences of disability from June 10, 1999 to January 19, 2001. He had previously indicated that he had recurrent open ulcers and cellulitis due to the duties of his job. Appellant noted that he underwent a Doppler scan on June 10, 1999 which was negative. In a form report, Dr. Mark S. Minkes, a Board-certified surgeon, reported that appellant had ulcers of the leg and diagnosed chronic venous insufficiency. He marked a "yes" box on the form to show that he believed appellant's condition was caused or aggravated by his employment activity.

In a July 19, 2001 merit decision, the Office denied appellant's claim for a recurrence of disability on the grounds that he had not submitted medical evidence to establish that his recurrence of disability was causally related to the accepted employment-related condition.

In a June 20, 2002 letter, appellant requested reconsideration. He submitted a September 20, 2001 duty status report from Dr. Minkes who stated that appellant had thrombophlebitis and recurrent venous ulcers. He noted that appellant was advised to return to work on January 22, 2001. In a July 2, 2002 merit decision, the Office again denied appellant's request for modification.

In a May 1, 2003 letter, appellant again requested reconsideration. He submitted a November 11, 2002 report from Dr. Andre E. Maginot, a Board-certified surgeon, specializing in vascular surgery, who stated that examination showed excellent pulses in the leg and brown indurations and scars of healed ulcers from the knee down the leg along the anteromedial aspect of the lower leg. He noted that an August 29, 2002 ultrasound showed no evidence of deep vein thrombosis. Dr. Maginot stated that appellant had chronic venous insufficiency with changes consistent with the diagnosis. Dr. Maginot commented that appellant would continue to have the condition for the rest of his life. He noted that this would cause some limitation in his ability to stand over long periods of time. Dr. Maginot indicated that appellant was also at risk for infection and healing difficulties if there are injuries to the skin.

In a November 21, 2002 report, Dr. I. Grant Orlin, a general practitioner, diagnosed venous insufficiency of the right leg and status post phlebotic syndrome on the right. He concluded that appellant's condition was caused by his work activities at the employing establishment. Dr. Orlin stated that prolonged standing causes venous blood return to the heart to be slowed. Venous blood would pool in the leg from gravity and the standing position. The veins become distended, porous and then cause edema with the spreading of fluid into the soft tissue of the ankles. The breakdown of the skin occurs because of the constant pressure and formation of the stasis ulcers. Dr. Orlin noted that appellant's condition was worsened by the formation of a complete blood clot in the greater saphenous vein of the thigh which required hospitalization. He stated that appellant's condition was caused by, due to, and arose out of his work injury. Dr. Orlin indicated that, based on the nature of appellant's injury, it was medically

reasonable to infer a causal relationship between appellant's continuous trauma and the employment injury.

In a May 29, 2003 merit decision, the Office denied appellant's request for modification.

### **LEGAL PRECEDENT**

When an employee claims a recurrence of disability due to an accepted employment injury, he or she has the burden of establishing by reliable, probative and substantial evidence that the recurrence of disability was causally related to his employment injury. This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury. Moreover, sound medical reasoning must support the physician's conclusion.<sup>1</sup>

### **ANALYSIS**

The Office accepted that appellant had a post-thrombotic syndrome which was caused by prolonged standing after appellant sustained a deep vein thrombosis. The Office paid compensation for the periods that appellant did not work. Appellant subsequently filed a claim for intermittent recurrences of disability from June 10, 1999 to January 19, 2001 due to cellulitis and skin ulcers. Appellant stated that he had a recurrence of cellulitis and ulcers beginning June 10, 1999. The medical evidence of record, however, does not establish that appellant had a recurrence of disability for intermittent periods between June 10, 1999 and January 19, 2001. Dr. Minkes marked a "yes" box on a form to show that he believed that appellant's ulcer on his leg was due to the chronic venous insufficiency. However, when a physician's opinion on causal relationship consists only of checking a "yes" box to answer a form question, that opinion has little probative value and is insufficient to establish a claim.<sup>2</sup> In a subsequent duty status report, Dr. Minkes only indicated that appellant had thrombophlebitis due to his employment. He did not provide any medical rationale to explain how that condition was related to appellant's employment and caused intermittent periods of disability due to recurrences of the symptoms of cellulitis and skin ulcers. This report, therefore, has limited probative value.

Dr. Maginot indicated that appellant had chronic venous ulcers that had been treated and healed and chronic edema. He stated that appellant would continue to have these conditions for the rest of his life which would limit his ability to engage in prolonged standing. Dr. Maginot noted that appellant was at increased risk for infection and healing difficulties if there were injuries to the skin. Dr. Maginot's report only discussed appellant's likely future problems and restrictions due to his accepted employment injury. He did not discuss whether appellant had prior recurrences of disability due to the employment injury. Dr. Maginot's opinion, therefore, has limited probative value because he did not give an opinion on the causal relationship between appellant's employment-related condition and his recurrences of disability from June 10, 1999 to January 19, 2001.

---

<sup>1</sup> *Ricky Storms*, 52 ECAB 349, 351-52 (2001).

<sup>2</sup> *Lee R. Haywood*, 48 ECAB 145, 147 (1996).

Dr. Orlin stated that appellant's condition was causally related to his prolonged standing at work. He gave a detailed explanation of how prolonged standing would cause skin ulcers as a result of his employment injury. However, Dr. Orlin also did not discuss whether appellant had recurrences of disability in the past due to his employment-related condition. Since Dr. Orlin did not specifically address the issue of the causal relationship in this case between appellant's accepted condition and subsequent recurrences of disability, his report has little probative medical value.

**CONCLUSION**

The Board finds that appellant has not met his burden of proof in establishing that his recurrences of intermittent disability were due to his accepted employment-related condition.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decision of May 29, 2003 be, and hereby is, affirmed.

Issued: June 25, 2004  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member