

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

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**J.M., Appellant**

**and**

**DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL  
CENTER, Memphis, TN, Employer**

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**Docket No. 13-1267  
Issued: September 20, 2013**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
ALEC J. KOROMILAS, Alternate Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On April 29, 2013 appellant filed a timely appeal from the February 7, 2013 decision of the Office of Workers' Compensation Programs (OWCP) denying his claim for compensation. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met his burden of proof to establish that he sustained an occupational disease causally related to factors of his federal employment.

**FACTUAL HISTORY**

On February 2, 2012 appellant, then a 59-year-old housekeeping aide, filed an occupational disease claim (Form CA-2) alleging that an unspecified cleaning product used in

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

the performance of his duties caused cold-like symptoms, including headache and sinus trouble. He first became aware of his condition and of its relationship to his employment on May 26, 2011. Appellant notified his supervisor on February 2, 2012. He missed one day of work between January 30 and 31, 2012. Appellant did not submit medical evidence in support of his claim. His supervisor noted that he had returned to work and had been assigned to light duty with no use of chemicals.

On February 8, 2012 OWCP requested additional medical evidence from appellant, as well as further factual information regarding his alleged exposure. It also requested that the employing establishment respond to its inquiries regarding appellant's duties and facts surrounding the claimed injury.

Appellant submitted emergency treatment notes dated February 6, 2012 from Dr. Shefali Mishra, a Board-certified physician internist, who diagnosed allergic rhinitis and hypersensitivity of the hand and requested an allergy test. Dr. Mishra did not address the cause of appellant's condition, although in her diagnosis for hypersensitivity, she wrote "hypersensitivity to hand: chemicals from cleaning agents," as per the patient history. The treatment notes stated that appellant was being treated for allergic rhinitis and allergies to an unspecified chemical. Dr. Mishra noted that appellant stated that there was a chemical reaction with hand swelling and nose bleeding for five weeks. She also noted that appellant was allergic to amlodipine, a prescription drug.

Appellant also submitted primary care notes dated January 30, 2012 from Dr. Jaya Adabala, a Board-certified internist, who noted that appellant had chronic sinusitis. Dr. Adabala noted that appellant stated that he was having reactions to cleaning liquids.

Appellant submitted a certificate for missed work from the VAMC Memphis Copper Clinic, which excused his absence from January 30 through 31, 2012. The clinic recommended a six-month work restriction from exposure to unspecified cleaning liquids that can trigger sinus problems, along with a restriction from terminal cleaning and bed washing.

In a narrative statement dated February 28, 2012, appellant responded to OWCP's inquiries. He stated that his delay between May 26, 2011, when he first realized the existence of the condition, and January 30, 2012, when he first sought medical treatment, was due to the fact that he did not realize he had a work-related condition. He sought treatment only when his doctor in nephrology, whom he did not identify, suggested that his symptoms might be related to the use of an unspecified cleaning chemical at work. Appellant stated that he was unsure whether he had any allergies, but that he had an appointment for March 15, 2012. He noted that the duties of his position included cleaning rooms, making beds, mopping floors and washing walls that required him to have contact with unspecified chemicals. Since the work restrictions from exposure to the chemicals were imposed, appellant stated, he had been "a lot better."

By decision dated March 12, 2012, OWCP denied appellant's claim, finding that the evidence was not sufficient to establish that the chemical exposure occurred as described by appellant. It found that appellant did not respond to the request for additional information or submit medical evidence necessary to support his claim.

By letter dated March 21, 2012, appellant stated that he had submitted a timely response to OWCP's request for additional information and medical evidence from his health care provider. On March 23, 2012 he submitted a request for a review of the written record.

By decision dated February 7, 2013, the hearing representative affirmed the decision of March 12, 2012. He accepted that appellant was exposed to cleaning products in the course of his job as a housekeeper; but the medical report was insufficient to establish an allergic condition caused by such exposure.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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 FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>2</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>3</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>4</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (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 diagnosed condition is causally related to the employment factors identified by the employee.<sup>5</sup>

Causal relationship is a medical issue. The medical evidence required to establish causal relationship is rationalized medical evidence.<sup>6</sup> Rationalized medical evidence is evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between a diagnosed condition and the identified employment factors. The opinion of the

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<sup>2</sup> *Gary J. Watling*, 52 ECAB 278, 279 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Michael E. Smith*, 50 ECAB 313, 315 (1999).

<sup>4</sup> See *Elaine Pendleton*, *supra* note 2 at 1147-51.

<sup>5</sup> See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>6</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140, 142 n.6 (2000).

physician must be based on a complete factual and medical background, must be of reasonable medical certainty and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>7</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>8</sup> While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal.<sup>9</sup>

### ANALYSIS

The Board finds that the medical evidence of record is insufficient to establish that appellant sustained an occupational disease following exposure to cleaning products in the performance of his federal employment duties.

By decision dated February 7, 2013, OWCP's hearing representative affirmed the denial of the claim. He addressed the evidence of record and found that appellant was exposed to cleaning products in the course of his job as a housekeeper. The claim was denied because the medical reports failed to establish an allergic condition causally related to appellant's workplace exposure. The Board affirms this finding.

The medical evidence from Dr. Mishra is of limited probative value. She diagnosed appellant with allergic rhinitis and hypersensitivity to his hand, and requested an allergy test. Dr. Mishra did not list a full or accurate history of his exposure or identify the cleaning products involved. In her diagnosis for hypersensitivity of appellant's hand, she wrote "hypersensitivity to hand: chemicals from cleaning agents," as per the patient history. The treatment notes stated that appellant was being treated for allergic rhinitis and allergies to an unspecified chemical. Dr. Mishra noted that he described a chemical reaction with hand swelling and nose bleeding for five weeks. She did not provide a history including the dates and frequency of appellant's exposure to any specific chemical. Dr. Mishra also noted that he was allergic to amlodipine, a prescription drug, but did not provide objective testing to determine the specific substance alleged to cause his allergic rhinitis. There is no record of appellant undergoing an allergy test in the record, though he noted that one had been scheduled for March 15, 2012. As submitted, Dr. Mishra's emergency treatment notes dated February 6, 2012 do not contain any opinion regarding the cause of the diagnosed conditions. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>10</sup>

The mere fact that a disease or condition manifests itself during a period of employment or the claimant's belief that the disease or condition was caused or aggravated by employment

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<sup>7</sup> *Leslie C. Moore*, 52 ECAB 132, 134 (2000); *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

<sup>8</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997); *Charles E. Evans*, 48 ECAB 692, 693 (1997).

<sup>9</sup> *Samuel Senkow*, 50 ECAB 370, 377 (1999).

<sup>10</sup> *See Michael E. Smith*, 50 ECAB 316 n.8 (1999).

factors or incidents is insufficient to establish causal relationship.<sup>11</sup> To establish causal relationship, a physician must provide an opinion on whether the employment incident described caused or contributed to the claimant's diagnosed medical condition and support that opinion with medical reasoning to demonstrate that the conclusion reached is sound, logical and rational.<sup>12</sup> Dr. Mishra did not indicate that appellant's condition was caused by exposure to any specific substance, nor did she provide objective testing, such as an allergy test, in support of her diagnosis of allergic rhinitis. Furthermore, her reference to "chemicals from cleaning agents" as per the patient history is too vague a reference to establish an understanding of the exposure in question. For these reasons, Dr. Mishra's opinion is insufficient to meet appellant's burden of proof to establish that he sustained an employment-related injury.

Appellant also submitted primary care notes dated January 30, 2012 from Dr. Jaya Adabala, a Board-certified internist, who noted chronic sinusitis. Dr. Adabala did not provide objective findings on examination to support her diagnosis or provide a history of dates and frequency of exposure to any specific substance alleged to cause appellant's condition. She noted only that appellant stated that he was having reactions to cleaning liquids. While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal.<sup>13</sup> Dr. Adabala's diagnosis of chronic sinusitis contained no etiology of appellant's condition; she merely noted what appellant had told her regarding the cause of his alleged occupational disease. Her reports are insufficient to establish appellant's claim because she did not provide medical rationale explaining how specific workplace substances would have caused or aggravated appellant's diagnosed chronic sinusitis, which appellant related he first became aware of in May 2011 and for which he sought medical treatment in January 2012.

Because appellant did not submit a reasoned medical opinion explaining the cause of his diagnosed condition, he did not meet his burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant did not meet his burden of proof to establish that his claimed occupational disease is causally related to factors of his employment as a mail carrier.

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<sup>11</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997); *Charles E. Evans*, 48 ECAB 692, 693 (1997).

<sup>12</sup> *See John W. Montoya*, 54 ECAB 306, 309 (2003); *see also H.D.*, Docket No. 07-1026 (issued October 1, 2007).

<sup>13</sup> *Samuel Senkow*, 50 ECAB 370, 377 (1999); *see also A.D.*, 58 ECAB 149, 158 (2006).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 7, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 20, 2013  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board