

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FREDERIC K. SAMUELS and U.S. POSTAL SERVICE,
POST OFFICE, Billings, Mont.

*Docket No. 97-1590; Submitted on the Record;
Issued March 3, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established that he developed skin cancer, causally related to factors of his federal employment.

The Board finds that this case is not in posture for decision.

By decision dated January 13, 1997, the Office of Workers' Compensation Programs accepted that appellant's claim was timely filed, that the evidence of record supported that he experienced long-term exposure to sunlight in the course of his duties as a letter carrier and that the evidence supported that he developed skin carcinoma. The Office found, however, that the medical evidence of record was not sufficient to establish causal relation.

The Board notes that appellant's treating Board-certified dermatologist, Dr. Lance R. Hinter, stated in his April 18, 1996 report as follows:

"A lesion biopsied on his left arm on March 1, 1993 showed an actinic keratosis which is a precancerous lesion due to long-term sun exposure. A basal cell carcinoma was removed from his left brow on March 26, 1996 of this year. That is also well recognized as being the result of long-term sun exposure.

"[Appellant] has worked nearly 26 years for the [employing establishment] with much letter carrier activity. Six of those years were in Southern California.

"One cannot place an exact degree of contribution to his problems from the time that he has spent with the [employing establishment] but there is undoubtedly an effect from that sun exposure."

The Board further notes that there is no contradictory medical evidence in the case record.

Proceedings under the Federal Employees' Compensation Act are not adversarial in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.¹ This holds true in occupational disease claims as well as in initial traumatic injury claims. In the instant case, although appellant's treating physician's report does not contain rationale sufficient to completely discharge appellant's burden of proving by the weight of reliable, substantial and probative evidence that he developed skin cancer lesions due to his prolonged exposure to sunlight during the 26-year course of his federal employment, it constitutes substantial, uncontradicted evidence in support of appellant's claim and raises an uncontroverted inference of causal relationship between his employment-related sunlight exposure and his skin cancer lesions, that is sufficient to require further development of the case record by the Office.² Additionally, there is no opposing medical evidence in the record.

Therefore, this case must be remanded to the Office for the creation of a statement of accepted facts, for development of specific questions to be answered and for referral of appellant to an appropriate second opinion specialist for a rationalized medical opinion addressing causal relation.

Consequently, the decision of the Office of Workers' Compensation Programs dated January 13, 1997 is hereby set aside and the case is remanded for further development in accordance with this decision and order of the Board.

Dated, Washington, D.C.
March 3, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

¹ *William J. Cantrell*, 34 ECAB 1223 (1983).

² *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).