

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHELLE D. DAVID and U.S. POSTAL SERVICE,
POST OFFICE, Deerfield Beach, FL

*Docket No. 02-1642; Submitted on the Record;
Issued December 24, 2002*

DECISION and ORDER

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

The issue is whether appellant has met her burden of proof to establish that she sustained an occupational disease in the performance of duty.

On February 3, 2002 appellant, then a 35-year-old letter carrier, filed an occupational disease claim alleging that she sustained pain in her right elbow due to factors of her federal employment. Appellant did not stop work.

By letter dated February 21, 2002, the Office of Workers' Compensation Programs informed appellant that the information provided was insufficient to establish her claim as she had not submitted any medical evidence. The Office provided appellant 30 days within which to submit medical evidence in support of her claim.

Appellant did not respond within the time allotted.

By decision dated April 30, 2002, the Office denied appellant's claim on the grounds that she had not established an injury in the performance of duty.

The Board finds that appellant has not met her burden of proof to establish that she sustained an occupational disease in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim, including the fact 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 is causally related to the employment injury.²

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.³ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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,⁴ must be one of reasonable medical certainty,⁵ 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.⁶ The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.⁷

In this case, appellant submitted no medical evidence in support of her claim. By letter dated April 30, 2002, the Office requested that appellant submit rationalized medical evidence regarding the causation between her diagnosed condition and factors of her federal employment. Appellant, however, failed to respond to the Office's request within the allotted time. As appellant did not submit the medical evidence necessary to substantiate her claim, she has failed to meet her burden of proof.⁸

The decision of the Office of Workers' Compensation Programs dated April 30, 2002 is affirmed.

Dated, Washington, DC
December 24, 2002

³ *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ *See Morris Scanlon*, 11 ECAB 384-85 (1960).

⁶ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁷ *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

⁸ The Board notes that appellant submitted additional evidence subsequent to the Office's April 30, 2002 decision. The Board's jurisdiction is limited to reviewing evidence which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may submit this evidence to the Office, together with a formal request for reconsideration pursuant to 5 U.S.C. § 8128.

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member