

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

T.O., Appellant

and

**DEPARTMENT OF TRANSPORTATION,
MARITIME ADMINISTRATION,
Washington, DC, Employer**

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**Docket No. 08-1390
Issued: November 5, 2008**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 11, 2008 appellant filed a timely appeal from an Office of Workers' Compensation Programs' merit decision dated February 14, 2008 which denied appellant's claim for an occupational disease. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue on appeal is whether appellant has met his burden of proof in establishing that he developed eye strain and numbness of the right arm in the performance of duty.

FACTUAL HISTORY

On May 7, 2007 appellant, then a 64-year-old senior transportation industry analyst, filed an occupational disease claim alleging that he developed eye strain and numbness of the right arm as a result of working at a computer. He became aware of his condition on May 15, 2007

and the relationship of his condition to his work duties on April 30, 2007. Appellant did not stop work.

Appellant submitted a May 1, 2007 prescription note from Dr. Linda Dressler, a Board-certified ophthalmologist, who prescribed special computer progressive eyeglasses to treat eye strain and numbness of the right arm. Dr. Dressler noted that head “mal-positioning” may aggravate a neck condition.

By letter dated October 11, 2007, the Office advised appellant of the factual and medical evidence needed to establish his claim. It requested that he submit a physician’s reasoned opinion addressing the relationship of his claimed condition and specific employment factors.

Appellant submitted a statement dated October 18, 2007 describing his work duties from 1990 to 2007, which included performing detailed computer programming, calculating guideline freight rates and using various software programs to complete administrative office work. He indicated that his vision worsened, which required him to wear prescription computer progressive eyeglasses. Appellant’s job duties required him to move his head up and down which contributed to his right arm numbness. He noted that since wearing the prescription glasses his eye strain has disappeared and his right arm numbness has decreased. Appellant advised that he was seeking reimbursement for the prescription glasses. He further noted that Dr. Dressler sent a letter to the Office on October 24, 2007 describing the cause of his eye condition. No additional evidence was received by the Office.

In a decision dated February 14, 2008, the Office denied appellant’s claim for compensation. It found that the work factors occurred as alleged, however, the medical evidence of record did not support that his eye or right arm conditions were causally related to those factors. The Office found that the prescription note from Dr. Dressler did not provide a reasoned medical explanation as to how appellant’s conditions were related to the factors of his employment.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, that the injury was 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.¹

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) factual statement identifying employment factors alleged to have caused or contributed to the presence

¹ Gary J. Watling, 52 ECAB 357 (2001).

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. The medical evidence required to establish causal relationship is generally 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, 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.²

ANALYSIS

It is not disputed that appellant's duties as a senior transportation industry analyst included extensive work that involved viewing a computer monitor and moving his head. However, he has not submitted sufficient medical evidence to support that his claimed eye strain or numbness to the right arm was caused by the employment duties.

On October 11, 2007 the Office advised appellant of the medical evidence needed to establish his claim. Appellant did not submit a rationalized medical report from an attending physician addressing how specific employment factors may have caused or aggravated his claimed condition. The only medical evidence submitted is a prescription note from Dr. Dressler dated May 1, 2007. Dr. Dressler merely prescribed computer progressive eyeglasses for eye strain and numbness of the right arm. She opined that head "mal-positioning" may aggravate a neck condition. However, these notes do not provide a history of injury³ or address whether appellant's employment work activities caused or aggravated the diagnosed medical conditions.⁴ Appellant's burden of proof includes the submission of rationalized medical opinion evidence, based on a complete factual and medical background, supporting a causal relationship between his employment and any diagnosed condition. Consequently, this note does not establish appellant's occupational illness claim.

The record contains no other medical evidence. Because appellant has not submitted reasoned medical evidence explaining how and why his eye strain and right arm numbness is employment related, he has not met his burden of proof.

Appellant, on appeal, asks to be compensated for the expense of his eyeglasses. Office procedures note that eye glasses for the correction of refractive error will be furnished only when

² *Solomon Polen*, 51 ECAB 341 (2000).

³ *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history have little probative value).

⁴ *A.D.*, 58 ECAB ____ (Docket No. 06-1183, issued November 14, 2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

there is an accepted eye condition necessitating eye glasses.⁵ The medical evidence, as noted, is insufficient to establish that appellant's eye condition is causally related to his federal employment.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment, nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship. Causal relationships must be established by rationalized medical opinion evidence.⁶ Appellant failed to submit such evidence, and the Office therefore properly denied appellant's claim for compensation.

CONCLUSION

The Board therefore finds that, as none of the medical reports provided an opinion that appellant sustained an employment-related injury in the performance of duty, appellant failed to meet his burden of proof.

ORDER

IT IS HEREBY ORDERED THAT the February 14, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 5, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

⁵ See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Medical Services and Supplies*, Chapter 3.400.3(d)(1) (October 1995).

⁶ See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).