

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ARLENE G. HARRIS and U.S. POSTAL SERVICE,  
POST OFFICE, New York, NY

*Docket No. 98-1585; Submitted on the Record;  
Issued April 12, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether appellant has established that she sustained a bilateral knee condition in the performance of duty causally related to factors of her federal employment.

On February 20, 1997 appellant, then a 49-year-old letter carrier, filed a claim alleging that she sustained an injury to her knees in the performance of duty.<sup>1</sup> She related, "I have been experiencing some weakening in the knees the past few weeks while carrying mail tubs for delivery. Today while delivering my left knee just gave way in the course of a regular walking motion." Appellant stopped work on February 20, 1997 and returned to limited-duty employment on February 21, 1997.

By decision dated May 22, 1997, the Office denied appellant's claim on the grounds that the evidence did not establish fact of injury. In a letter dated June 9, 1997, appellant requested reconsideration of her claim. By decision dated September 8, 1997, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted was insufficient to warrant a merit review of the case. She again requested reconsideration by letter dated December 2, 1997. By decision dated February 10, 1998, the Office denied modification of its May 22, 1997 decision.

The Board has duly reviewed the case record on appeal and finds that appellant met her burden of proof to establish that she sustained a bilateral knee condition in the performance of duty causally related to factors of her federal employment. The Board finds that the case is not in posture for decision with respect to whether any disability for which compensation is claimed is causally related to the employment injury.

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<sup>1</sup> Appellant initially filed a claim for a traumatic injury occurring on February 20, 1997; however, the Office of Workers' Compensation Programs determined that the claim was for an occupational disease as appellant attributed her condition to carrying tubs of mail for several weeks.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> 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 are causally related to the employment injury.<sup>3</sup>

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 claimant.<sup>4</sup> The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.<sup>5</sup> 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,<sup>6</sup> must be one of reasonable medical certainty<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

In the present case, appellant alleged that she sustained pain in her knees due to carrying heavy tubs of mail in the course of her employment. In a statement submitted in support of her claim, she related that, "[a]lthough it was the left knee that gave out, my original concern had been that both knees were bothering me." Appellant related that she experienced constant pain in her knees, particularly when carrying heavy items, as well as a clicking and twisting sensation

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>5</sup> The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

<sup>6</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>7</sup> *See Morris Scanlon*, 11 ECAB 384-85 (1960).

<sup>8</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>9</sup> *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

in her knees when walking. Although the Office accepted the occurrence of the claimed employment factors, it found that appellant did not submit sufficient medical evidence to establish that she sustained an occupational injury due to these factors.

In support of her claim, appellant submitted a treatment note from the employing establishment's medical clinic dated February 20, 1997. In the clinic note, a physician indicated that appellant's left leg gave out on that date and diagnosed a strain of the left knee. The physician found that appellant was not able to return to duty. In subsequent clinic notes dated February through April 1997, physicians with the employing establishment continued to restrict appellant to limited-duty employment due to her knee condition.

Appellant sought treatment for her knee problems from Dr. Daniel W. Wilen, who specializes in adult reconstructive orthopedics. In an office visit note dated March 11, 1997, he indicated that appellant sustained an injury to her left knee delivering mail at work and recommended a magnetic resonance imaging (MRI) scan of both knees. In an undated report, Dr. Wilen found appellant disabled for work from March 4 to 6, 1997 and able to perform limited-duty employment on March 7, 1997. In an office visit note dated April 21, 1997, he related that he had treated appellant since March 11, 1997 and that, "at the time of her initial visit, [appellant] stated that due to having to pick up heavy tubs of mail and carrying them, her left knee buckled with resultant injuries to both knees." On physical examination of the left knee, Dr. Wilen listed findings of "pain and tenderness over the parapatellar region; clicking and grating; loss of motion; [and] minimal swelling of the left knee joint." On examination of the right knee, he listed findings of "pain and tenderness; clicking and grating; [and] loss of motion." Dr. Wilen diagnosed "internal derangement of both knees with effusion of both knee joints and pain of both knee joints" and opined that "due to [appellant's] employment and repetitive actions [] the injuries of both knees are directly related to the date of accident on February 20, 1997."<sup>10</sup>

In a report dated November 3, 1997, Dr. Wilen noted that appellant "has been suffering with bilateral knee pain from continual bending of her knees at her job with the [employing establishment]." He found that an MRI scan of appellant's left knee revealed chondromalacia patella and an MRI scan of the right knee showed a medial meniscus tear and recommended arthroscopic surgery of both knees. Dr. Wilen noted that appellant was currently working but was "in severe pain since her job requires her to bend and lift, putting too much stress on both knees."

In his reports dated April 21 and November 3, 1997, Dr. Wilen discussed the history of injury, listed findings on examination and attributed appellant's bilateral knee condition to factors of her federal employment. The Board finds that his reports are sufficiently detailed and rationalized to support appellant's claim that she sustained a bilateral knee condition in the performance of duty. When considered with the contemporaneous medical evidence from the employing establishment's medical clinic documenting appellant's problems with her knees, the evidence is sufficient to establish that she sustained an injury in the performance of duty. Consequently, the case will be remanded for the Office to further develop the evidence to

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<sup>10</sup> In a report dated March 3, 1997, Dr. Wilen diagnosed probably disc disease of the lumbar spine and internal derangement of the left knee.

determine the nature and extent of any disability for which compensation is claimed. After such further development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

The decisions of the Office of Workers' Compensation Programs dated February 10, 1998, September 8 and May 22, 1997 are hereby reversed on the issue of fact of injury and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, D.C.  
April 12, 2000

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member