

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VINCENT O. CHU and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, North Chicago, IL

*Docket No. 99-236; Submitted on the Record;
Issued April 19, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained a hepatitis infection in the performance of duty.

On July 28, 1997 appellant filed a claim for a hepatitis B infection that he attributed to his exposure to patients in his employment as a staff physician. Appellant cited an incident in which he was stuck by a needle in November 1996 and two incidents in which patients spit in his face. Appellant submitted records from the employing establishment's health unit showing that he tested positive for hepatitis B on July 18, 1997. By letter dated September 11, 1997, the Office of Workers' Compensation Programs advised appellant that it needed further information on his claim, including "a comprehensive medical report from your treating physician which describes your symptoms; results of examinations and tests; diagnosis; the treatment provided; the effect of treatment *and the doctor's opinion, with medical reasons, on the cause of your condition.*" (Emphasis in original).

By decision dated November 10, 1997, the Office found that the employment exposures occurred as alleged by appellant, but that the medical evidence did not establish that his condition was caused by the employment exposures.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or adversely affected by his employment. As part of this burden he must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation. The mere fact that a disease 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 disease became apparent during a period of

employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.¹

The Board finds that appellant has not established that he sustained a hepatitis infection in the performance of duty.

At the time of the Office's decision, appellant had not submitted any medical evidence from an attending physician addressing the question of whether his hepatitis infection was causally related to his employment. He therefore did not meet his burden of proof. Although appellant submitted a medical report to the Board on appeal, the Board cannot consider this new evidence, as its review is limited to the evidence that was before the Office at the time of its final decision.²

The decision of the Office of Workers' Compensation Programs dated November 10, 1997 is affirmed.

Dated, Washington, D.C.
April 19, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member

¹ *Froilan Negron Marrero*, 33 ECAB 796 (1982).

² 20 C.F.R. § 501.2(c) states that the Board's "review shall be limited to the evidence in the case record which was before the Office at the time of its final decision."