

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KENNETH NIXON and U.S. POSTAL SERVICE,
POST OFFICE, Miami, FL

*Docket No. 01-1115; Submitted on the Record;
Issued December 19, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant established that his back condition is causally related to factors of his federal employment.

On November 17, 2000 appellant, then a 43-year-old letter carrier, filed a notice of occupational disease, claiming that for the "past couple of years" he had been experiencing "pains throughout his body" from his back, hip, hands and feet. Appellant did not submit any medical evidence.

By letter dated December 28, 2000, the Office of Workers' Compensation Programs requested that appellant submit additional information to support his claim.

Appellant submitted a duty status report (Form CA-17) from Dr. John McAdory, a Board-certified family practitioner, dated November 22, 2000, in which appellant's diagnosis was "unknown." Appellant also submitted a December 19, 2000 magnetic resonance imaging (MRI) report which diagnosed him with large right lateral disc herniations at levels C4-5 and C5-6.

Appellant submitted a personal statement dated January 11, 2000 in which he stated that the grabbing, pushing and pulling of mail caused his various ailments.

By letter dated January 19, 2001, the employing establishment controverted his claim stating that appellant had not submitted any medical evidence to show that his medical problems were related to his federal employment.

By decision dated February 15, 2001, the Office denied appellant's claim since he had not established fact of injury.

On March 5, 2001 the Office received an undated letter from appellant advising of an address correction and stating that he wished to establish fact of injury by submitting additional medical evidence.

By letter dated March 15, 2001, the Office informed appellant that they would only address the new medical evidence if appellant requested an appeal.

The Board finds that appellant did not establish that his back condition or any other ailment was causally related to factors of his federal employment.

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 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 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.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

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 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.⁴

The medical evidence required to establish a causal relationship 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, 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.⁵

¹ 5 U.S.C. §§ 8101-8193.

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

³ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁴ *Vicky L. Hannis*, 48 ECAB 538 (1997).

⁵ *Supra* note 3.

In this case, appellant submitted an MRI report dated December 19, 2000, which showed large right lateral disc herniations at levels C4-5 and C5-6 yet offered no opinion on the issue of whether appellant's employment caused the condition. Appellant also submitted a November 22, 2000 duty status report from Dr. McAdory which indicated that appellant had pain in his hip but that his diagnosed condition was "unknown."

The Office also received additional medical evidence on March 5, 2001, but did not receive a request for an appeal from appellant. The Board does not have jurisdiction to review the additional medical evidence because the review of a case is limited to the evidence in the case record which was before the Office at the time of its final decision.⁶ Since the Office received the additional medical evidence on March 5, 2001, after the Office's February 15, 2001 decision, the Board does not have jurisdiction to review this evidence.

The medical evidence of record diagnoses appellant with herniated disc at levels C4-6 yet offers no medical rationale explaining the relationship between the diagnosed condition and his federal employment.

The February 15, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
December 19, 2001

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ 20 C.F.R. § 501.2(c).