

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHIAMING CHI and U.S. POSTAL SERVICE,
POST OFFICE, Oxnard, CA

*Docket No. 02-686; Submitted on the Record;
Issued September 9, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issue is whether appellant met his burden of proof to establish that he sustained a low back injury causally related to factors of his federal employment.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not established that he sustained an employment-related injury.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim² including the fact that the individual is an "employee of the United States" within the meaning of the Act,³ that the claim was timely filed within the applicable time limitation period of the Act,⁴ 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.⁵ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶ However, an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong and persuasive evidence.⁷

¹ 5 U.S.C. §§ 8101-8193.

² See *Daniel R. Hickman*, 34 ECAB 1220 (1983).

³ See *James A. Lynch*, 32 ECAB 216 (1980); see also 5 U.S.C. § 8101(1).

⁴ 5 U.S.C. § 8122.

⁵ See *Melinda C. Epperly*, 45 ECAB 196 (1993).

⁶ See *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ See *Robert A. Gregory*, 40 ECAB 478 (1989).

Causal relationship is a medical issue⁸ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.⁹ Moreover, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰

The facts in this case indicate that on September 5, 2001 appellant, then a 50-year-old clerk, filed an occupational disease claim alleging that factors of employment caused a low back injury. He did not stop work. Appellant's supervisor indicated that appellant had been on limited duty since August 31, 1999 with the restriction of no reaching overhead and no lifting of greater than five pounds. In an attached letter, appellant stated that his current back condition was due to a March 8, 1998 employment injury and further advised that beginning in April 2000 job duties of dumping parcels caused his back to hurt.¹¹

In support of his claim, appellant submitted a number of medical reports from Dr. Elliott A. Schaffzin, a Board-certified orthopedic surgeon. By letter dated September 24, 2001, the Office informed appellant that the medical reports submitted were insufficient to establish entitlement and further informed him of the type of evidence needed to support his claim, which was to include a comprehensive medical report. In response, appellant submitted a personal statement in which he described his work duties and an October 3, 2001 report from Dr. Schaffzin. In a letter dated October 13, 2001, appellant described the history of his employment and stated that he believed his back condition was caused by work at the employing establishment from September 1999 to April 2000 when he felt pain in his neck and whole back.

By decision dated November 28, 2001, the Office denied appellant's claim, finding that the medical evidence failed to establish that factors of employment caused his back condition. The instant appeal follows.

⁸ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁹ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, *supra* note 6.

¹⁰ *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

¹¹ The record indicates that by letter dated August 28, 2001, the Office of Workers' Compensation Programs indicated that appellant had an accepted bilateral shoulder condition, which was adjudicated under file number A13-2000928. The Office further indicated that appellant had an accepted traumatic back injury dating March 6, 1998, which was considered a "short term" claim and was adjudicated under file number A13-1157120. The Office advised appellant to file an occupational disease claim for his current condition, the instant claim, which was adjudicated by the Office under file number 91362-13-2036909. In a letter dated September 24, 2001, the Office informed appellant that the March 6, 1998 claim had been closed since 1998.

The relevant medical evidence includes an October 11, 2000 report in which Dr. Schaffzin advised that appellant should be off work for one week due to increased pain in both shoulders. In an October 18, 2000 report, he advised that appellant was temporarily totally disabled due to arm and low back pain. By report dated December 4, 2000, Dr. Schaffzin advised that appellant was still disabled and that acupuncture treatment had improved the burning sensation in his back but only minimally helped his shoulders. In reports dated February 14 and April 6, 2001, Dr. Schaffzin noted appellant's complaints of low back pain and in an attending physician's report dated April 10, 2001, he provided a history of injury that appellant sustained shoulder pain after playing tennis and diagnosed left shoulder impingement syndrome and lower back pain. He checked the "yes" box, indicating that the condition was aggravated by employment activity, stating, "reaching above head and bending and twisting" and advised that appellant could perform light work "casing only." By report dated July 11, 2001, Dr. Schaffzin noted that appellant returned with "persistent shoulder, upper back and low back symptomatology," advising "I feel [that] the [low back] pain is related to long periods of standing and should respond to a lumbar stabilization exercise program without any other treatment at this time." In an October 3, 2001 report, he again noted appellant's complaints of back pain and stated "the restrictions at work seem to be controlling his symptoms," advising that appellant needed no treatment specifically for the back other than medication.¹²

The Board finds that appellant did not establish that he sustained an employment-related injury as the record contains no rationalized medical evidence that relates his back condition to employment factors. While Dr. Schaffzin continued to note appellant's complaints of low back pain, he provided no definitive diagnosis regarding appellant's back, merely relating his symptoms and stating that it was "related to long periods of standing." On an Office form report, Dr. Schaffzin diagnosed left shoulder impingement, rotator cuff tendinitis and low back pain and checked a "yes" box, indicating that these conditions were employment related and caused by head reaching and bending and twisting. The Board has held, however, that such an opinion, on causal relationship, without further explanation, has little probative value and is insufficient to establish causal relationship.¹³ Furthermore, Dr. Schaffzin advised that playing tennis caused appellant's condition. Lastly, he advised that appellant's back condition did not interfere with his work and that he could continue to do casing with the previous restrictions.¹⁴ Therefore, as appellant did not provide the necessary medical evidence to establish that employment factors caused his back condition, the Office properly denied his claim.

¹² Dr. Schaffzin also provided findings regarding appellant's accepted shoulder condition. *Id.*

¹³ *Ruth S. Johnson*, 46 ECAB 237 (1994).

¹⁴ The record indicates that while Dr. Schaffzin advised that appellant was temporarily disabled in October 2000, this was primarily due to increased pain in both shoulders.

The decision of the Office of Workers' Compensation Programs dated November 28, 2001 is hereby affirmed.

Dated, Washington, DC
September 9, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member