

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILFREDO N. PEREZ and U.S. POSTAL SERVICE,
POST OFFICE, Brooklyn, N.Y.

*Docket No. 96-1415; Submitted on the Record;
Issued April 20, 1998*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability on February 14, 1993 and November 13, 1995 causally related to his February 1, 1990 employment injury.

The Board has duly reviewed the case record, on appeal and finds that appellant has not met his burden of proof, in establishing that he sustained a recurrence of disability on February 14, 1993 and November 13, 1995 causally related to his February 1, 1990 employment injury.

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between his alleged recurrence of disability commencing on February 14, 1993 and November 13, 1995 and his February 1, 1990 employment injury.¹ This burden includes the necessity of furnishing medical evidence from a physician, who on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.²

In this case, the Office of Workers' Compensation Programs accepted the claim for aggravation of gouty arthritis of the left knee resolved. On December 5, 1995 the Office received a Form CA-2a in which appellant alleged that he sustained a recurrence of disability on February 14, 1993 and November 13, 1995 causally related to his February 1, 1990 employment injury. By decision dated February 9, 1996, the Office denied appellant's claim, finding that he failed to establish a causal relationship between his accepted injury and the claimed condition or disability.

¹ *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

² *See Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

In support of his claim for recurrence of disability, appellant submitted an attending physician's report from Dr. Alexander Coch, a Board-certified family practitioner, dated December 17, 1995. Dr. Coch diagnosed gout, gouty arthritis right knee and gait impairment. He checked "yes" to indicate that the condition was caused or aggravated by an employment activity and noted beside his checkmark "prolonged standing with walking." Dr. Coch indicated that appellant was disabled from November 17, 1995 through January 17, 1996.

On December 27, 1995 the Office informed appellant of the additional evidence needed to support his claim. The Office specifically requested a medical opinion, supported by rationale, addressing whether and how appellant's present condition was causally related to his accepted employment injury.

In a report dated January 20, 1996, Dr. Coch again diagnosed gout, gout arthritis right knee and gait impairment. He stated that appellant was disabled because it was difficult for him to "deliver mail and to climb stairs ... with a painful knee and gait impairment."

The reports from Dr. Coch are not sufficient to meet appellant's burden of proof because the physician did not offer a rationalized opinion addressing whether appellant's current condition and disability were causally related to his accepted employment injury. In his December 17, 1995 report, Dr. Coch diagnosed gout, gouty arthritis right knee and gait impairment and checked "yes" to indicate that the condition was caused or aggravated by an employment activity. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's disability was related to the history given is of diminished probative value.³ Dr. Coch did note next to his checkmark "prolonged standing with walking." However, without any explanation or rationale for the conclusion reached, such report remains insufficient to establish causal relationship.⁴ Moreover, in his January 20, 1996 report, Dr. Coch did not address whether appellant's current condition was related to his accepted injury.

An award of compensation may not be based on surmise, conjecture or speculation or upon appellant's belief that there is a causal relationship between his condition and his employment. To establish causal relationship, appellant must submit a physician's report in which the physician reviews the factors of employment identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and appellant's medical history, states whether these employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his opinion. Appellant failed to submit such evidence and therefore failed to discharge his burden of proof.⁵

³ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

⁴ *Id.*

⁵ *Donald W. Long*, 41 ECAB 142, 146-47 (1989).

The February 9, 1996 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
April 20, 1998

David S. Gerson
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member