

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHAEL L. DIZAAR and DEPARTMENT OF VETERANS AFFAIRS,
MEDICAL CENTER, Los Angeles, Calif.

*Docket No. 96-1652; Submitted on the Record;
Issued April 10, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
MICHAEL E. GROOM

The issue is whether appellant has established a right foot or knee injury causally related to factors of his federal employment.

In the present case, appellant filed a claim on September 7, 1995 alleging that he sustained right foot injuries causally related to his federal employment. In a narrative statement, appellant indicated that his job required lifting, walking, carrying, and pulling records and files. Appellant indicated that he had right knee, ankle, and foot problems, and his condition had progressively worsened. By decision dated March 4, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the medical evidence did not establish that he sustained an injury causally related to factors of his federal employment.

The Board has reviewed the record and finds that appellant has not established an injury causally related to his federal employment.

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.¹ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the claimed conditions and her federal employment.² Neither the fact that

¹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

² *See Walter D. Morehead*, 31 ECAB 188 (1979).

the condition became manifest during a period of federal employment, nor the belief of appellant that the condition was caused or aggravated by his federal employment, is sufficient to establish causal relation.³

In this case, appellant, a medical file clerk, has discussed employment factors such as lifting and carrying of files, walking, and the requirement that he wear dress shoes rather than sneakers. The medical evidence submitted indicates that appellant underwent right knee surgery in May 1985, was diagnosed on February 17, 1994 with hammertoes of the second through fifth digits of the right foot, and was also diagnosed with tarsal tunnel syndrome on April 1, 1994. In a treatment note dated August 21, 1995, Dr. Rueben Ezquerro, a podiatrist, indicated that appellant underwent surgery on the right foot.⁴

In order to establish his claim, appellant must submit probative medical evidence establishing causal relationship between a diagnosed condition and the implicated factors of his federal employment. The record does contain evidence supporting causal relationship in this case. Dr. Ezquerro completed a form report (Form CA-20) dated September 5, 1995, but he failed to provide a history of injury and he checked a box “no” as to causal relationship between a right foot condition and employment.⁵ It is, as noted above, appellant’s burden to submit evidence sufficient to establish his claim. The Board finds that appellant has failed to submit medical evidence establishing causal relationship between a right foot or knee condition and his federal employment, and therefore he has not met his burden of proof in this case.

³ *Manuel Garcia*, 37 ECAB 767 (1986).

⁴ Appellant submitted additional evidence on appeal, but the Board is limited to review of the evidence that was before the Office at the time of its decision. 20 C.F.R. § 501.2(c).

⁵ Even if Dr. Ezquerro had checked “yes,” this would be of little probative value without additional explanation and supporting rationale; *see Barbara J. Williams*, 40 ECAB 649 (1989).

The decision of the Office of Workers' Compensation Programs dated March 4, 1996 is affirmed.

Dated, Washington, D.C.
April 10, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

Michael E. Groom
Alternate Member