

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MARILYN J. HOLLEY-ROSS and DEPARTMENT OF THE NAVY,  
SEA SYSTEMS COMMAND, Corona, Calif.

*Docket No. 96-1975; Submitted on the Record;  
Issued August 10, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof in establishing that she sustained an injury causally related to factors of employment.

On August 7, 1995 appellant, then a 39-year-old logistics management specialist, filed an occupational disease claim, alleging that repeated bending, twisting, lifting, sitting and standing caused a bulging disc at L3-4 and L4-5 with diffuse central herniations and spinal stenosis. She first noticed the condition on July 10, 1987 and became aware that it was employment-related on May 22, 1995. She stopped work on June 10, 1995.<sup>1</sup> In accompanying statements, she indicated that her job required that she lift 30 to 40-pound computers and move furniture. In support of her claim, appellant submitted statements from coworkers who indicated that she was required to lift objects that weighed up to 100 pounds and move furniture.

The relevant medical evidence includes a June 28, 1995 report from appellant's treating Board-certified orthopedic surgeon, Dr. Vincent J. Devlin, who diagnosed lumbar spinal stenosis and provided restrictions to appellant's activity. In a September 25, 1995 report, he noted that she had undergone lumbar decompression at L4-5 on April 6, 1994 and advised that he was "unable to state with any reasonable medical probability that her condition arose out of the course or in the course of employment."

By decision dated December 7, 1995, the Office denied the claim, finding that appellant failed to establish that her back condition was causally related to factors of employment.

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<sup>1</sup> The record indicates that appellant had previously filed an occupational disease claim in 1990 that was adjudicated under Office of Workers' Compensation Programs file number 92509-13-938040 and denied by Office decisions dated April 1, 1991 and November 21, 1995. Following appellant's appeal to the Board, in a decision dated January 20, 1998, Docket No. 96-565, the Board affirmed the Office decision.

Appellant requested reconsideration and submitted additional medical evidence. In a January 10, 1996 work capacity evaluation, Dr. Gerald R. Goodlow, a Board-certified psychiatrist, provided restrictions to appellant's physical activity and advised that "all limitations are due to back pain which may have occurred from employment injury." In a January 16, 1996 report, Dr. Goodlow advised:

"Having chronic back pain secondary to a herniated disc is generally caused by trauma to the back which can result from strenuous activity such as moderate to heavy lifting, repetitive bending and twisting activities and general injuries to the back. Once the back has been damaged activities that can worsen the pain do include prolonged sitting or prolonged forward flexion of the spine such as while doing writing or secretarial work can aggravate the back. Based on looking at [appellant's] job description, I cannot say with a degree of certainty that the job caused the pain unless she is doing those activities that were mentioned above that can cause or exacerbate the back pain."

In a decision dated February 8, 1996, the Office denied modification of the prior decision.

Appellant again requested reconsideration and submitted additional evidence. In a form report dated February 20, 1996, Dr. J. Trice, an employing establishment physician,<sup>2</sup> provided restrictions to appellant's activity and checked the "yes" box, indicating that appellant's condition was employment related. In a March 22, 1996 report, Dr. Goodlow advised:

"I have reviewed the job description that [appellant] submitted to us that she was performing at the time of her exacerbation and also the job description that was supplied by her employers. If she was lifting computers weighing 30 [to] 40 pounds frequently during that period then that could have caused the exacerbation of her pain. This can definitely occur. This is based on the description of her activities. This determination is based on the information provided by [appellant]."

An employing establishment job description provides that the position of logistics management specialist is primarily sedentary in nature with some walking, climbing, stooping and bending.

By decision dated April 23, 1996, the Office denied modification of the prior decision, finding Dr. Goodlow's March 22, 1996 report and those that preceded it, to be speculative and thus not rationalized. The instant appeal follows.

The Board finds that appellant failed to establish that she sustained an occupational disease causally related to factors of employment.

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<sup>2</sup> Dr. Trice's credentials are unknown.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden of establishing the essential elements of his or her claim<sup>4</sup> including the fact that the individual is an "employee of the United States" within the meaning of the Act,<sup>5</sup> that the claim was timely filed within the applicable time limitation period of the Act,<sup>6</sup> 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.<sup>7</sup> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>8</sup>

Causal relationship is a medical issue,<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup>

In the present case, there is no dispute that appellant was a federal employee and that she timely filed claims for compensation benefits. However, the medical evidence is insufficient to establish that she sustained an employment-related occupational disease because it does not contain a rationalized medical opinion explaining how her back condition was caused or aggravated by employment factors. While appellant submitted reports from her treating physicians, Drs. Devlin and Goodlow, their opinions on causal relationship are couched in speculative terms and are, therefore, of decreased probative value.<sup>12</sup> Appellant's job description indicated that the position was primarily sedentary in nature, and while Dr. Trice indicated that appellant's condition was employment related, the Board has held that merely checking "yes" on

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.110.

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

<sup>6</sup> 5 U.S.C. § 8122.

<sup>7</sup> See *Melinda C. Epperly*, 45 ECAB 196 (1993).

<sup>8</sup> See *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>9</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>10</sup> *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, *supra* note 8.

<sup>11</sup> *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

<sup>12</sup> See *Ern Reynolds*, 45 ECAB 690 (1994).

a form report is insufficient to establish causal relationship.<sup>13</sup> Consequently, appellant has not submitted sufficient medical evidence to establish that her back condition was causally related to factors of employment.<sup>14</sup>

The decisions of the Office of Workers' Compensation Programs dated April 23 and February 8, 1996 and December 7, 1995 are hereby affirmed.

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

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>13</sup> See *Debra S. King*, 44 ECAB 203 (1992).

<sup>14</sup> *Supra* note 10. The Board notes that appellant submitted evidence to the Board with this appeal. The Board, however, cannot consider this evidence as its review of the case is limited to the evidence of record which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).