U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BRUCE E. DONEY and DEPARTMENT OF THE TREASURY, U.S. SECRET SERVICE, Washington, D.C.

Docket No. 96-200; Submitted on the Record;
Issued February 12, 1998

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS, BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that his right knee condition was causally related to factors of his federal employment prior to November 14, 1994.

On June 3, 1995 appellant, then a 61-year-old maintenance supervisor, filed a notice of occupational disease and claim for compensation, Form CA-2, alleging that the severe pain in his right knee was employment related. The record shows that appellant lost no time from work due to the alleged injury.[1] In a decision dated September 21, 1995, the Office of Workers' Compensation Programs rejected the claim, finding that appellant had failed to meet his burden of proof in establishing that his right knee condition was causally related to factors of his federal employment prior to November 14, 1994. In an accompanying memorandum, the Office noted that none of the medical reports of file made mention of appellant's employment duties, *i.e.*, getting in and out of trucks, climbing, walking as having contributed to appellant's symptoms. The Office, instead noted that the medical reports submitted made mention of a 1984 knee injury, requiring surgery, as having caused appellant's current arthritic symptoms.

The Board finds that this case is not in posture for decision and must be remanded for further evidentiary development.

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing the essential elements of his or her claim, including the fact that an injury

[1] The evidence in the record does not show whether appellant ever filed a (Form CA-1) employment-related traumatic injury claim back in 1984.

[2] 5 U.S.C. §§ 8101-8193.

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.[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 the 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, generally, is rationalized medical opinion evidence.[5] 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,[6] must be one of reasonable medical certainty,[7] 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.[8] The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused or aggravated by the employment conditions is sufficient to establish causal relation.[9]

In the instant case, the Office in its September 21, 1995 decision stated that none of the medical reports of file made mention of appellant's employment duties. However, in a report dated July 27, 1995 Dr. Alvaro A. Sanchez, a Board-certified orthopedic surgeon, stated that "if appellant's job required prolonged walking, running, jumping and/or squatting, such activities could have partially contributed to the degenerative changes." Appellant in an undated statement had previously identified entering and exiting his work truck, walking, stooping, bending, and kneeling, as employment factors alleged to have caused or contributed to the presence or occurrence of his knee condition. In addition, Dr. Sanchez stated that 80 percent of appellant's

[3] *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[4] *Jerry D. Osterman,* 46 ECAB __ (Docket No. 93-1777, issued February 2, 1995); *see also Victor J. Woodhams,* 41 ECAB 345, 352 (1989).

[5] The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly,* 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

[6] *William Nimitz, Jr.,* 30 ECAB 567, 570 (1979).

[7] *See Morris Scanlon*, 11 ECAB 384-85 (1960).

[8] *See William E. Enright*, 31 ECAB 426, 430 (1980).

[9] *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

knee condition could be contributed to his prior meniscectomy performed in 1985, and that 20 percent could be contributed to his work-related activities. Dr. Sanchez has therefore identified at least two of the employment factors enumerated by appellant as having contributed to his right knee condition and is causally related to his work-related activities. However, this report does not provide a well-rationalized medical opinion explaining how or why the prolonged walking, running, jumping and/or squatting caused or aggravated a specific medical condition.[10]

In *Arnold Gustafson,*[11] the Board held that it is not necessary that a work factor "materially" contribute to a disabling condition for the employee to be entitled to compensation benefits. In *Henry Klaus*[12] the Board held that: "Where a person has a preexisting condition which is not disabling but which becomes disabling because of aggravation causally related to the employment, then regardless of the degree of such aggravation, the resulting disability is compensable." The Board held that no attempt should be made to apportion the disability between the preexisting condition and the aggravation of that condition; the employee's disability "is compensable regardless of the precise quantum of such aggravation directly attributable to work." And in the case of *Beth P. Caput,*[13] the Board set aside and remanded the case to the Office, stating: "It is not necessary to prove a significant contribution of factors of employment to a condition for the purpose of establishing causal relationship. If the medical evidence revealed that [walking, stooping and/or squatting to which appellant was exposed during the course of his federal employment] ... contributed in any way to [appellant's knee condition] ... such condition would be considered employment related for the purpose of compensation benefits under the Act.

Similarly, in a report dated August 2, 1995, Dr. Christopher M. Magee, a Board-certified orthopedic surgeon, indicated that the finding of a tear in the meniscus was consistent with the 1984 injury sustained by appellant, and that appellant did not have any other identifiable disease process which would account for the condition of his right knee. He diagnosed status post medical meniscectomy with post-traumatic medial compartment osteoarthritis of the right knee and opined that appellant's "current knee pain and his recent surgery were both the direct result of his injury of 1984 while working for the [employing establishment].…" He also stated that "a traumatic event resulting in a meniscal tear and eventual meniscectomy is certainly consistent with eventual post-traumatic osteoarthritis, which coincidentally developed in the same compartment of the right knee which had previously been injured and treated." This report, however, does not describe appellant's specific work duties in any detail or address the causal relationship between appellant's right knee condition and any workplace factors. Dr. Magee did not provide medical reasoning explaining how or why the prolonged walking, running, jumping

[10] *Charles H. Tomasezewski,* 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship); *see also George Randolph Taylor,* 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

[11] 41 ECAB 131 (1989).

[12] 9 ECAB 333 (1957); *see also* Larson's *The Law of Workmen's Compensation* vol. 2. § 59-20.

[13] 37 ECAB 158 (1985).

and/or squatting caused or aggravated a specific medical condition. Therefore this report is insufficient to establish appellant's claim for benefits.

While the reports of Dr. Sanchez and Dr. Magee are not sufficient to establish that appellant's right knee condition is causally related to factors of his employment, the Board finds that these reports, given the absence of evidence to the contrary, are sufficient to require further development of the evidence. The Board notes that these reports combined presented an accurate medical history of appellant's employment factors and related his right knee condition to this history, providing some explanation of how the factors of his employment caused his right knee condition.[14] Furthermore, it appears from the record that appellant may have filed a (Form CA-1) traumatic injury claim back in 1984, which may have resulted in surgery in 1985.[15] The Office may undertake to develop either factual or medical evidence for determination of the claim.[16] It is well established that proceedings under the Act are not adversarial in nature,[17] and while the claimant has the burden to establish entitlement to compensation, the Office shares the responsibility in the development of the evidence.[18] The Office has the obligation to see that justice is done.[19] The evidence on appeal, shows that the above questions have not been adjudicated and that further development of the case by the Office is required.

The Board will set aside the Office's September 21, 1995 decision and remand the case for further development of the medical evidence and an appropriate final decision. As there was an uncontroverted inference of causal relationship, the Office was obligated to request further information from appellant's treating physician. On remand, the Office shall further develop the evidence by preparing an accurate statement of facts and asking Dr. Sanchez to support his opinion with a well-reasoned explanation of how and why the specific duties enumerated by appellant caused, contributed or aggravated any medical condition in appellant's right knee. The Office shall also ask appellant to provide appropriate documentation regarding his alleged injury of 1984. After such further development, as deemed necessary, the Office shall issue a *de novo* decision.

The decision of the Office of Workers' Compensation Programs dated September 21, 1995 is hereby set aside and the case is remanded to the Office for further proceedings consistent with this opinion.

Dated, Washington, D.C.
February 12, 1998

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[14] *See* Federal (FECA) Procedure Manual, Part 2 – Claims, *Fact of Injury* Chapters 2.803.4 (September 1980).

[15] *See supra* note 1.

[16] *See John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978); 20 C.F.R. § 10.11(b).

[17] *See, e.g., Walter A. Fundinger, Jr.*, 37 ECAB 200 (1985); *Michael Gallo*, 29 ECAB 159 (1978).

[18] *Dorothy L. Sidwell*, 36 ECAB 699 (1985).

[19] *William J. Cantrell*, 34 ECAB 1233 (1983).

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
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