U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of REBECCA A. BUCHANAN and U.S. POSTAL SERVICE, POST OFFICE, Houston, Tex.

Docket No. 96-1008; Submitted on the Record;
Issued January 7, 1998

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM, BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of her federal employment.

On June 11, 1995 appellant, then a 42-year-old mail handler filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that she had worked on concrete floors lifting mail for years when she began to experience horrible pain; so much pain in her feet that she could hardly walk. The record shows that appellant was placed on intermittent restrictions on May 31, 1995, but lost no time from work.

In support of her claim, appellant submitted a duty status report (Form CA-17) dated June 30, 1995, from Dr. Robert E. Neville, practicing in podiatry. The CA-17 form shows that appellant's initial evaluation took place on May 31, 1995 and she was placed on light-duty status. Dr. Neville, however, made no determination as to when appellant was to resume her regular duties. Dr. Neville also indicated that appellant had not given him a history of injury, but diagnosed appellant with plantar fasciitis with heel spur syndome in both feet.

By letters dated August 29 and September 22, 1995, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish her claim and requested that she submit such evidence. The Office particularly requested that appellant submit a physician's reasoned opinion addressing the relationship of her claimed condition and specific employment factors. Both letters allotted appellant twenty days within which to submit the requested evidence. Appellant responded to the Office's letters, but failed to submit evidence to support her claim.

By decision dated November 17, 1995, the Office denied appellant's claim for compensation benefits on the grounds that the evidence of record failed to support the fact of an injury in this case. In an accompanying memorandum, the Office noted that appellant was advised of the deficiencies in her claim and afforded an opportunity to provide supportive

evidence; however, no medical evidence was submitted to support the fact that appellant sustained an injury in the performance of duty, as alleged.

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of her federal employment, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim, including the fact 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.[2]

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.[3] The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.[4] 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,[5] must be one of reasonable medical certainty,[6] 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.[7]

In the present case, the Office found that the claimed event, incident or exposure occurred at the time, place and in the manner alleged. However, appellant submitted insufficient medical evidence to establish that the diagnosed condition was causally related to the employment factors or conditions. Appellant was advised of the deficiencies in her claim and

[1] 5 U.S.C. §§ 8101-8193.

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

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

[4] 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.

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

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

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

afforded an opportunity to provide supportive evidence, however, no medical evidence addressing whether any medical condition arose out of appellant's employment has been submitted. Appellant stated that she was born with rheumatoid arthritis and has no other joint diseases; that she worked every day for eleven and one-half years; and that she has been in a lot of pain because of walking on concrete floors and lifting mail over the years. The only medical evidence submitted by appellant was the duty status report (Form CA-17) from Dr. Neville dated June 30, 1995. Although Dr. Neville diagnosed appellant with plantar fasciitis with heel spur syndome in both feet, he did not provide a discussion of appellant's job duties, or provide a history of injury, or a rationalized medical opinion,[8] based upon reasonable medical certainty, that there was a causal connection between appellant's diagnosed condition and any specific workplace factors. For example, Dr. Neville did not describe appellant's specific work duties in any detail or provide medical reasoning explaining how or why the walking on concrete and the lifting mail over the years caused, precipitated or aggravated the diagnosed plantar fasciitis. Therefore, Dr. Neville's report is of diminished probative value and insufficient to meet appellant's burden of proof.[9]

The Board, however, has held that an award of compensation may not be based on surmise, conjecture or speculation, or appellant's belief of causal relationship. The mere fact that a disease or condition manifests itself or worsens during a period of employment[10] or that work activities produce symptoms revelatory of an underlying condition[11] does not raise an inference of causal relationship between the condition and the employment factors. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.[12] As appellant has not submitted rationalized medical evidence explaining how and why the diagnosed condition was caused or aggravated by her federal employment, the Office properly denied appellant's claim for compensation.[13]

[8] *Victor J. Woodhams, supra* note 3.

[9] *Charles H. Tomaszewski*, 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).

[10] *William Nimitz, Jr., supra* note 5.

[11] *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

[12] *Victor J. Woodhams, supra* note 3.

[13] Following the Office's November 17, 1995 decision, appellant submitted additional evidence. However, the Board may not consider such evidence for the first time on appeal. 20 C.F.R. § 501.2(c). This decision does not preclude appellant from having such evidence considered by the Office as part of a reconsideration request.

The decision of the Office of Workers' Compensation Programs dated November 17, 1995 is affirmed.

Dated, Washington, D.C.
January 7, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member