

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RUDY M. FAZ, JR. and DEPARTMENT OF THE AIR FORCE,
KELLY AIR FORCE BASE, Tex.

*Docket No. 96-1904; Submitted on the Record;
Issued June 1, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant met his burden of proof to establish that he sustained a skin condition in the performance of duty.

On July 30, 1989 appellant, a 42-year-old production manager, began to experience a wet, burning sensation between his legs. Appellant filed a Form CA-2 claim for benefits based on occupational disease on May 30, 1995, alleging that this condition was caused or aggravated by factors of employment.

Accompanying appellant's claim were four treatment notes from Dr. Arthur W. Richardson, a Board-certified dermatologist, from April 29 through December 2, 1994. In his April 29, 1994 note, Dr. Richardson stated that appellant had a slight case of dermatitis; in his July 26 and December 2, 1994 notes Dr. Richardson diagnosed a mild hyperkeratotic involvement in the inguinal regions which appeared to be psuedocanthosis nigricans, a skin condition. In another treatment note dated July 26, 1994, Dr. Richardson stated that appellant should be excused from prolonged walking or walking in hot temperatures.

In an interagency letter dated August 3, 1995, the employing establishment controverted the claim. The employing establishment stated that Dr. Richardson's treatment note of April 29, 1994 indicated appellant had a slight case of dermatitis, and that his treatment note of December 2, 1994 stated that appellant was asymptomatic. The employing establishment noted that the treatment note of July 26, 1994 advised that appellant be excused from walking or working in heat, but indicated that appellant's supervisor stated that his regular job did not require him to engage in these activities. The employing establishment concluded that it required additional information in order to fully evaluate appellant's claim, including a letter from his dermatologist documenting his precise diagnosis and the etiology of the condition.

By letter dated August 31, 1995, the Office advised appellant that the evidence he submitted was not sufficient to determine whether he was eligible for compensation benefits, and

that he needed to submit a detailed description of the specific employment-related conditions or incidents he believed contributed to his skin condition. The Office also asked appellant to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition, and an opinion as to whether factors or incidents, *i.e.*, specific employment factors, at his employing establishment contributed to his condition.

In response to the Office's August 31, 1995 letter, Dr. Richardson submitted a medical report dated October 20, 1995. In this report Dr. Richardson stated that beginning in 1989 appellant had experienced inflammation between his legs, the severity of which had varied until July 1994, when he developed a condition known as psuedocanthosis nigricans. Dr. Richardson noted that appellant had related that the condition would worsen when he was exposed to heat or when he was walking for prolonged periods. Dr. Richardson prescribed a skin lotion and advised appellant to lose weight, which he believed most likely an "important" part of his problem. Dr. Richardson stated that when he reexamined appellant on July 24, 1995, he complained of continual discomfort between his legs and asserted that none of the prescribed remedies had improved his condition.

Dr. Richardson explained that:

"Psuedocanthosis [sic] is a chronic condition, usually seen as a result of hereditary reasons, or in diabetic or pre-diabetics, or in obese individuals. It is a thickening of velvety, almost warty involvement which appears usually in areas that are subjected to rubbing and moisture, as in the groin, under the arms and on the neck. Of course, it can be exacerbated and worsened by heat, perspiration and friction from walking. I doubt very much if any exposure to chemicals in his work had anything to do with this."

In addition to Dr. Richardson's reports, the Office received a September 9, 1995 letter from appellant in which he provided a summary of his employment history, his medical history, and his alleged exposure to employment factors which caused or aggravated his claimed skin condition.

In a decision dated December 22, 1995, the Office denied appellant's claim on the grounds that the claimed medical condition was not causally related to factors or incidents of employment. In a memorandum to the Director, the claims examiner noted Dr. Richardson's opinion that a chronic condition of psuedocanthosis nigricans either was hereditary, resulted from diabetic origins, or was present in obese individuals, such as appellant. The claims examiner further noted that Dr. Richardson stated that the condition typically appeared in areas subjected to rubbing and moisture, such as the groin, under the arms and on the neck, and while it could be exacerbated by heat, perspiration, and friction from walking, exposure to chemicals at the employing establishment had nothing to do with the onset of appellant's condition. Therefore, as appellant provided no rationalized medical opinion in support of his claim, the Office denied his claim.

The Board finds that appellant did not meet his burden of proof to establish that he sustained a skin condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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 These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.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 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. The medical evidence required to establish causal relationship is usually rationalized medical evidence. 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, 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.⁴

In the present case, the only medical evidence bearing on causal relationship appellant submitted were the four treatment notes and the October 20, 1995 medical report of Dr. Richardson, his treating dermatologist, who rejected any causal relationship between appellant's chronic skin condition and factors or incidents of employment. Appellant, therefore, has failed to submit any probative medical evidence establishing that the diagnosed condition of psuedocanthosis nigricans is causally related to employment factors or conditions.

An award of compensation may not be based on surmise, conjecture or speculation. 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.⁵ Causal relationship must be established by rationalized medical opinion evidence. The Office advised appellant of the type of evidence

¹ 5 U.S.C. § 8101 *et seq.*

² *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Id.*

⁵ *See Id.*

required to establish his claim; however, appellant failed to submit such evidence. The evidence submitted by Dr. Richardson suggested that appellant's symptoms of a wet, burning sensation between the legs were most likely caused by rubbing, moisture and friction while walking, and were aggravated by his overweight condition. More importantly, Dr. Richardson unequivocally stated that there was no causal relationship between appellant's skin condition, psuedocanthosis nigricans, and any employment factors.

Accordingly, as the only medical opinion of record submitted by appellant was that of Dr. Richardson, who rejected any causal relationship between appellant's claimed condition or disability and factors or incidents of employment, the Office properly denied appellant's claim for compensation.

The decision of the Office of Workers' Compensation Programs dated December 22, 1995 is hereby affirmed.

Dated, Washington, D.C.
June 1, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member