

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of THOMAS WALLACE and U.S. POSTAL SERVICE,
POST OFFICE, Abilene, Kans.

*Docket No. 95-3052; Oral Argument Held February 3, 1998;
Issued May 12, 1998*

Appearances: *Beth Regier Foerster, Esq.*, for appellant; *Miriam D. Ozur, Esq.*, for the Director,
Office of Workers' Compensation Programs.

DECISION and ORDER

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

The issue is whether appellant met his burden of proof in establishing that he sustained a herniated cervical disc causally related to his federal employment.

On September 1, 1994 appellant, then a 36-year-old clerk, filed a claim alleging he injured his neck on August 20, 1994 when he struck his head on the door frame while exiting from his postal vehicle. In support of his claim he submitted an attending physician's report from Dr. Elaine Ferguson, an osteopath. Dr. Ferguson stated that she first examined appellant on August 25, 1994 and diagnosed a cervical strain. She referred appellant for examination by Dr. Ali B. Manguoglu, a Board-certified neurologist.

On August 31, 1994 appellant underwent a magnetic resonance imaging (MRI) scan of the cervical spine. The MRI noted evidence of a disc herniation at C5-6.

In a September 8, 1994 report, Dr. Manguoglu reviewed appellant's history of injury and reported his findings on physical examination. He diagnosed right C6 radiculopathy and noted that the herniated disc seen on the MRI was compatible with appellant's symptoms. Dr. Manguoglu noted that appellant had not been responsive to physical therapy and recommended an anterior cervical discectomy and fusion.

The record reflects that on September 22, 1994 appellant underwent surgery for an anterior cervical discectomy and fusion of C5-6.

In an October 11, 1994 report, Dr. Manguoglu advised that appellant was recovering from surgery with no discomfort of the neck or right arm. He noted that appellant would be released to return to work, subject to limitations on lifting, carrying and avoiding repetitive overhead work.

By decision dated November 1, 1994, the Office rejected appellant's claim. The Office found that the August 20, 1994 incident was not established as occurring as alleged, noting that appellant had neck complaints prior to that date and that the original medical reports failed to address the August 20, 1994 incident. The Office also found the medical evidence of record insufficient to establish appellant's claim.

Appellant, through counsel, requested a hearing before an Office hearing representative. Appellant submitted a September 22, 1994 hospital admission report from Dr. Ferguson, noting that appellant was not aware of any major injuries but did recall hitting his head on his truck while at work and experiencing neck discomfort in August 1994. At the hearing, appellant testified as to the August 20, 1994 incident. In an April 27, 1995 note, Dr. Manguoglu noted that his record revealed no indication of any type of preexisting neck condition prior to August 20, 1994 and opined that appellant's trauma to his head that date was the reason for his disc herniation. Appellant also submitted statements from coworkers.

In a June 19, 1995 decision, the Office hearing representative modified the November 1, 1994 decision to reflect that appellant struck his head while exiting his postal vehicle on August 20, 1994, as alleged. The hearing representative affirmed the denial of appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship.

The Board finds that the case is not in posture for decision.

A person who claims benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim. The claimant has the burden of establishing the occurrence of the alleged injury at the time, place and in the manner alleged. The claimant must also establish through medical evidence that the employment incident caused a personal injury.¹ Generally, rationalized medical evidence is evidence which includes a physician's opinion with explanation on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factor.²

In the present case, appellant was treated following the August 20, 1994 incident by Dr. Ferguson and Dr. Manguoglu. Both physician's provided an accurate description of the history of injury, in which appellant struck his head against his truck while at work on that date. Dr. Ferguson treated appellant several days following the incident and diagnosed a cervical strain. She subsequently obtained an MRI which revealed a herniated disc at C5-6. On examination, Dr. Manguoglu reported that appellant's upper right extremity and neck complaints

¹ *Melissa A. Carter*, 45 ECAB 618 (1994).

² *Ern Reynolds*, 45 ECAB 690 (1994).

were

consistent with a C5-6 disc. He subsequently provided an affirmative opinion that the August 20, 1994 trauma to appellant's head was sufficient to cause the cervical disc herniation.

The Board finds that the medical evidence of record raises an uncontroverted inference of a causal relationship between the August 20, 1994 employment incident and the diagnosed cervical disc herniation, for which appellant underwent surgery.³ While Dr. Manguoglu's medical reports are not sufficient to discharge appellant's burden of proof, the reports of the physician are sufficient to require further development of the claim. The case will therefore be remanded to the Office for further development of the medical evidence consistent with this decision. After such development as the Office deems necessary, a *de novo* decision should be issued on appellant's entitlement to compensation benefits.

The June 19, 1995 decision of the Office of Workers' Compensation Programs is hereby set aside and the case is remanded for further proceedings consistent with this decision.

Dated, Washington, D.C.

May 12, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

³ *John J. Carlone*, 41 ECAB 354 (1989).