

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of BETTE S. POLLARD and DEPARTMENT OF HEALTH & HUMAN SERVICES, NATIONAL INSTITUTE OF HEALTH, Bethesda, Md.

*Docket No. 96-914; Submitted on the Record;  
Issued May 6, 1998*

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DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a respiratory condition in the performance of duty.

The Board has duly reviewed the case record in the present appeal and finds that appellant did not meet her burden of proof to establish that she sustained a respiratory condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing 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.<sup>2</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

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

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

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 a causal relationship is rationalized medical opinion 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.<sup>4</sup>

In the present case, appellant alleged that her "long-term cough, bronchitis, stuffiness and congestion and weak, shallow breathing" were due to exposure to exhaust fumes and dust at work. By decision dated September 27, 1994, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained a respiratory condition in the performance of duty and, by decisions dated August 1 and November 9, 1995, the Office denied modification of its September 27, 1994 decision.

Although it has been accepted that appellant was exposed to exhaust fumes, dust and other allergens at work, she did not submit sufficient medical evidence to establish that she sustained a respiratory condition due to these employment factors.

Appellant submitted a January 26, 1994 report in which a physician with an illegible signature indicated that she had a history compatible with occupational aggravation or causation of bronchitis. This report, however, is of limited probative value to establish appellant's claim in that it does not contain a clear opinion that appellant's diagnosed condition was due to specific employment factors.<sup>5</sup> In a report dated May 26, 1994, Dr. Elliot R. Goldstein, an attending Board-certified internist specializing in pulmonary disease, indicated that appellant had small airways obstruction of a mild to moderate degree. He noted that exposure to noxious elements could be detrimental to appellant's "lung health" but he did not provide an opinion that appellant sustained an employment-related respiratory condition.

Appellant also submitted several reports of Dr. Harvey P. Pollard, a medical researcher at the employing establishment's National Institute of Diabetes and Digestive and Kidney Diseases.<sup>6</sup> In a report dated May 14, 1994, Dr. Pollard indicated that it was likely that appellant's respiratory problems were due to exposure to diesel pollutants, carbon monoxide and dust at work. He noted that this opinion was supported by the fact that several coworkers also

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<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

<sup>5</sup> *See 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).

<sup>6</sup> The record reveals that Dr. Pollard is appellant's husband. Dr. Pollard did not examine appellant, but rather based his reports on his review of her medical records.

suffered problems due to such exposure. In a report dated May 11, 1995, Dr. Pollard stated that there was no alternative explanation for the deterioration in appellant's respiratory condition and that he could only ascribe appellant's condition to her work exposures. In a report dated June 19, 1994, Dr. Pollard asserted that the fact two coworkers required respiratory treatment in May 1994 supported his prior opinion that appellant's respiratory problems were employment related. These reports, however, are of limited probative value on the relevant issue of the present case in that they do not contain adequate medical rationale in support of their conclusions on causal relationship.<sup>7</sup> Dr. Pollard did not adequately describe the medical process through which appellant's particular respiratory condition could have been aggravated or caused by the accepted employment factors. The Board notes that Dr. Pollard's opinion is of limited probative value for the further reason that he does not specialize in a field peculiar to appellant's claimed condition. The opinions of physicians who have training and knowledge in a specialized medical field have greater probative value concerning medical questions peculiar to that field than the opinions of other physicians.<sup>8</sup>

Appellant also submitted a July 10, 1995 report in which Dr. Irving Mizius, an attending Board-certified internist specializing in pulmonary disease, indicated that her diagnostic testing was consistent with small airways disease and stated:

"It would be reasonable to conclude that since she was in good health prior to October 1993 that some factor exposed to at work had caused and/or precipitated airways reactivity and probably airway injury that has caused her to remain sensitive to the irritants found in her office environment. This would be supported by her return to normal function when she is allowed to remain away from her office environment."

This report of Dr. Mizus, however, is of limited probative value on the relevant issue of the present case in that it does not contain adequate medical rationale in support of its opinion on causal relationship.<sup>9</sup> The Board has held that the fact that a condition manifests itself or worsens during a period of employment<sup>10</sup> or that work activities produce symptoms revelatory of an underlying condition,<sup>11</sup> does not raise an inference of causal relationship between a claimed condition and employment factors.

The decisions of the Office of Workers' Compensation Programs dated November 9 and August 1, 1995 are affirmed.

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<sup>7</sup> See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

<sup>8</sup> *Lee R. Newberry*, 34 ECAB 1294, 1299 (1983).

<sup>9</sup> See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (finding that a medical opinion not fortified by medical rationale is of little probative value).

<sup>10</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>11</sup> *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

Dated, Washington, D.C.  
May 6, 1998

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member